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Library Trends

Intellectual Freedom

EVERETT T. MOORE
Issue Editor

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Introduction

EVERETT T. MOORE

FOR MORE THAN TWO DECADES, librarians in the United States and Canada, and to varying degrees in other Western and English-speaking countries, have had a deepening concern for the maintenance of intellectual freedom, and, indeed, for an extension and broadening of that freedom. But, although the public and official stands taken by librarians in defense of freedom have received considerable acclaim (with notable dissents from some who believe this has given comfort to the forces of indecency or to dubious political positions), many librarians themselves are far from satisfied that the principles of freedom are being given the kind of wholehearted and effective support that is demanded in these times.

The first report by the American Library Association's Committee for New Directions, presented to the association in January of 1970, gives first priority to concerns for intellectual freedom. It stresses though—and this is of particular significance—the need for a more aggressive position by the ALA in supporting librarians whose positions are threatened by conflicts with governing officials over intellectual freedom issues. It urges a more forthright declaration of concern for social issues in American society and for a more direct involvement of the association in efforts to correct social and political injustices and imbalances. It asks that greater attention be given to problems of censorship and the freedom to read—particularly as these affect the freedom of individual librarians to take clear positions on issues of censorship without suffering penalties or risking their livelihood.

How far the concerns for intellectual freedom should be extended to taking official positions on such matters by the library associations (national, state and regional) is a matter of much controversy at this moment. David K. Berninghausen's chapter in this issue looks usefully

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into this matter; and by the time the issue appears the ALA will have met again in annual conference and will doubtless have experienced further wide-ranging and strenuous debates on the subject.

Perhaps, then, this issue of *Library Trends* comes at a propitious time. Not that its several contributions will be able to offer direct answers to such questions as those with which ALA is at present struggling, for that is not its intent. It may seem to some that it does not give adequate voice to the newer forces in the profession who are pressing for a deeper "official" commitment to the acceptance of social responsibilities. The intent of the issue is, however, to consider where we stand on the matter of the freedom to read, on access to libraries in pursuit of knowledge and in enjoyment of literature and the arts. It is concerned with the ever-present threat of censorship and the restriction of the freedoms guaranteed under the United States Constitution, or similarly acknowledged by other peoples through their governments or through such expressions as that of the General Assembly of the United Nations in 1946, which stated that freedom of information is a fundamental human right.

Several of the opening chapters deal with the history of our concerns for intellectual freedom and our growing involvement in efforts to defend it. Robert B. Downs provides a valuable review of the development of the concept as basic in our society. No one has spoken more wisely and more effectively to us about our obligations to defend freedom of speech and the press than Downs. He has been our most eloquent spokesman in interpreting the responsibilities of librarians for maintaining free libraries and a climate for freedom of thought.

Concerning that "climate" in which freedom will flourish, Ervin J. Gaines surmises that it is better now than it was even so recently as the late 1950s, but he shows that attitudes of the American public still are dominantly cautious and quite conservative with respect to expressions of the "new morality." Librarians who open their shelves to publications that appeal to independent readers, young and old, and which indeed reflect the rapidly changing scene in America and other parts of the world should not be surprised if certain solid citizens of the community show reluctance to accept such expressions.

A commitment to intellectual freedom, though voiced in a great many ways, is clearly central to our idea of free libraries—of libraries to which all members of our society should have free access. Implicit is the idea that librarians have a solemn responsibility to preserve this freedom to read and to oppose actively any effort to limit it. "Freedom

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of access" may be interpreted broadly, so as to require consideration of the many ways in which it can be assured, and, in concrete terms, the several ways in which it may be denied or in which the principle becomes diluted. Hoyt R. Galvin throws light on some of the barriers that impede free access and suggests means for reaching and serving "the unreached" with library service.

Ann Ginger and Celeste MacLeod, who look into the question of people's rights to understand the law as it affects their lives, are concerned that little or nothing is done to teach the fundamentals of law in our schools, and that they fail therefore to provide access to ideas about freedom. They believe that librarians can perform an important service by helping people to know their rights and by providing information about them. They refute the generally accepted position that librarians should maintain a completely passive or "neutral" attitude toward assisting people in understanding the law. They suggest that to keep the law a secret is less than a service to people in need of help. "Librarians," they say, "can make a valuable contribution by helping lawyers who are working to have social questions decided peacefully and by reason and due process in the legislative halls, administrative agencies, and courtrooms. These lawyers need the legal materials that librarians can provide." Their implication is plain that the librarian's concern for people's social needs should be considerably broader than is generally conceded.

The position of the library's "governing body" concerning issues of free speech, free access, and the maintenance of the library's independence in selection and in pursuing useful community programs is of critical importance. Alex P. Allain in his chapter stresses that the obligation which trustees have to their community precludes imposing their own prejudices, preferences, or views when issues of freedom are faced. Whatever the governing body—whether trustees or commissioners or regents, and whether they hold authority over public, college or university libraries—the obligation to defend intellectual freedom or academic freedom is the same. If such governing authorities tend to adhere so closely to positions of preserving established modes of thought or of resisting change or fresh viewpoints, they may then stand in opposition to the librarian whose professional responsibility it is to interpret and make effective an institution's principles of selection and expression. As Allain suggests, this will not happen if governing authorities remember that they "are there to protect the librarian and to back him."

An important chapter in our struggle for a free press is recounted by Eli M. Oboler in "Congress as Censor." Oboler, who can take a long view of such matters, is concerned not only to tell of efforts in our darker past to "keep America pure." He shows that Congress today is sure to respond to strong waves of feeling by people "back home" who are disturbed by what they consider to be the threat of obscene literature and art (including the movies, of course) or of subversive ideas. With Gaines, he reminds us that the great majority of Americans—silent or otherwise—are not ready to abandon their rather conservative standards of personal morality, absurd as they may seem to many of the young people of our "now" generation.

This brings us to a consideration of what the law and the courts have to say concerning free speech and free expression. Stanley Fleishman offers the sobering reminder that the Supreme Court has not solved the problem of defining obscenity—the obscenity law being, in his words, a "constitutional disaster area." We labor, he says, under a vagueness of standards and the difficulty of applying them to particular material. Justice Warren Burger's advocacy of stricter local controls over fleshy movies and sexy printed materials may portend a trend for the future, he suggests, and he cites a *Wall Street Journal* prediction in support of this.

To what extent, John J. Farley asks, is the adolescent entitled to freedom of the intellect? This is unquestionably one of the most difficult questions we face, and Farley speaks with effect of "the tension that results from the American society's lip-service to the ideal of the totally free marketplace of ideas as opposed to the practical reality." Intellectual freedom seems never to have been generally accepted in the United States, he observes. He foresees, not unhelpfully, an end to enforced protection of adolescents from books that might harm; but the complexities will remain, he believes, with a continuing tension between the adolescent and his elders.

Frequently asked by those who search for first causes is the question as to what rights a man actually has to make his thoughts or ideas known. Are we really free to publish and be published? In his chapter on "The Behemoths and the Book Publishers," William R. Eshelman considers the mergers, consolidations, regroupings, absorptions, and other mutations that have occurred in the publishing world in recent years, and assesses their effect on the state of our freedom to read, to learn, and to enjoy. The issue editor assigned him one of the most difficult and baffling of subjects to explore, and is pleased by what came forth.

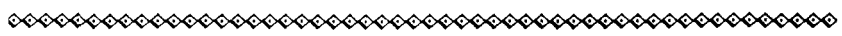
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One of the hazards in putting together such an issue as this is in setting reasonable bounds to the scope of the study. To limit consideration of intellectual freedom to the situation in the United States and Canada would be a natural approach, but obviously narrow and parochial. This is as far as we usually try to go as we discuss such matters among ourselves. To try to extend it to the rest of the world, though, would be to attempt the impossible within the limits of a *Library Trends* issue. Much study and research is needed to help us overcome our ignorance on these matters. The solution attempted here has been to look mainly at certain other parts of the English-speaking world, to the countries of Western Europe with which our cultural and institutional ties have been close, and to the troubled country of South Africa, some of whose social problems are comparable, if not always similar, to ours.

Robert Collison, former Librarian of the British Broadcasting Corporation, has, therefore, been asked to review the situation in Western Europe, noting in particular the currently fascinating phenomenon of a decontrolled Denmark. Jean P. Whyte and Geoffrey T. Alley speak with valuable firsthand knowledge and experience of matters in Australia and New Zealand. Douglas H. Varley is able to view the situation in South Africa from his present vantage point in England, where he has lived for the past four years. Though Varley can perhaps speak more freely now than he once could about matters of intellectual freedom, it will be seen that he wrote forthrightly on library censorship, for publication in South Africa, as long ago as 1954.

Rounding out the issue are chapters that look to a better education of ourselves in the issues of freedom. LeRoy C. Merritt, whose untimely death occurred while this issue was in press, was himself faithfully engaged in bring information to the library world about the never-ending struggle for true intellectual freedom. He was in the best position to tell about what others have done and are trying to do to report and interpret the current scene. Kenneth F. Kister has pioneered in teaching a full-scale course on intellectual freedom and censorship, and can speak usefully of his own experience and of a number of other efforts now being made to provide better-informed librarians for tomorrow's battles.

If the issue, in sum, appears to offer a series of spot checks on the state of our library freedoms here and abroad, and of our own strengths and weaknesses as librarians in the war on ignorance and unreason, the editor acknowledges that it is, in fact, just that.



Freedom of Speech and Press: Development of a Concept

ROBERT B. DOWNS

THE FOUNDING FATHERS acted with premeditation and forethought when in adopting the Bill of Rights they placed the freedom of information at the top of the first ten amendments to the Constitution. Burned into our consciences and consciousness for nearly two hundred years—though not infrequently violated in practice—are the admonitions in the First Amendment: “Congress shall make no law . . . abridging the freedom of speech, or of the press.”

To understand the motivations and strong emotional involvement of the framers of the Constitution, with its appended Bill of Rights, one must retrace a series of events in English and colonial American history. The First Amendment's prohibition against interference with free speech and free press was a direct consequence of centuries of bitter experience living under extremely repressive English laws controlling speech and press. The authority of government was long regarded as supreme, irresistible, and absolute. Prior to the English Revolution of 1688, unqualified sovereignty had been exercised by the Crown; subsequently, the same power was vested in parliamentary authority. Any criticism of the government was considered not only objectionable but dangerous heresy which must be ruthlessly suppressed. That entire concept was rejected by the First Amendment.

For five hundred years before adoption of the American Constitution, a struggle between tyranny and freedom had been under way in England. The Anglo-Saxon precedents in the field may be dated from the English treason statute of 1351, during the reign of Edward III. Parliament persuaded or compelled Edward III to narrow the crime of treason by limiting it to making war on the King or com-

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passing or imagining his death. But in subsequent centuries the statute was broken down by judicial interpretation and expanded by new acts of Parliament. Officials in power used the charge of treason to send their adversaries to the scaffold—and then lost their own heads when they fell out of favor with the King. Parliament added new treasons to the statutory list, with no requirement that an overt act be proved. The omission, noted Sir Matthew Hale in his *Pleas of the Crown*, “subjected men to the great punishment of treason for their very thought.” The body of repressive laws continued to build up until the death of Henry VIII, when legislation was enacted wiping out all forms of treason except those contained in the statute of Edward III.

Nevertheless, with or without the sanction of law, the slaughter of dissidents persisted. Catholic Queen Mary killed off the Protestants and Protestant Elizabeth similarly dispatched the Catholics—along with sundry rivals and ex-lovers. The orgy of persecution continued without diminution during the eighty-five year Stuart epoch and Cromwell’s Puritan Revolution.

The significance of the written and printed word was fully recognized by Elizabeth, Cromwell, and the Stuarts. From the time William Caxton set up the first printing press in England, in 1476, a new force was released in the world, but until Henry VIII’s split with the Catholic Church, printed books were predominantly concerned with orthodox religion or were non-controversial in subject matter. Thereafter the country was flooded with Anabaptist, Presbyterian, Quaker, and Papist tracts. As soon as products of the printing press started to reach the masses, restraints began to be set up. Treason, felony, and heresy statutes directed against authors and publishers were enacted in Elizabeth’s time and strengthened by a licensing system to control the printers and their presses. Only the government was free to express opinion through the spoken or written word.

A blow against censorship and prior restraint was struck by John Milton in 1644 in his classic polemic, *Areopagitica*, contending against parliamentary censorship and for unlicensed printing. Milton’s stirring defense for liberty of the press went unheeded, and governmental censorship continued for another fifty years. The Licensing Act of 1662, made law after the Restoration, prohibited seditious and heretical books and pamphlets; forbade printing any material unlicensed by the Stationers’ Company, a governmental monopoly; made illegal the importation or selling of a book without a license, and required

that all printing presses be registered with the Stationers' Company. The system did not come to an end until 1694, six years after the "Glorious Revolution" threw out the last of the Stuarts.

Meanwhile, on the other side of the Atlantic, the English colonies in America, forced to operate under the laws of the motherland, were experiencing similar travails. One myth that should be dispelled is the popular belief that freedom of expression was cherished in the colonial American society. As Leonard W. Levy points out in his *Freedom of Speech and Press in Early American History*:

The evidence provides little comfort for the notion that the colonies hospitably received advocates of obnoxious or detestable ideas on matters that counted. Nor is there reason to believe that rambunctious unorthodoxies suffered only from Puritan bigots and tyrannous royal judges. The American people simply did not understand that freedom of thought and expression means equal freedom for the other fellow, especially the one with hated ideas.¹

Colonial America was marked by great diversity of opinion on religion, politics, and other matters, but violent conflicts were avoided for the most part by the separation of groups with varying points of view. John P. Roche sums up the prevailing situation quite accurately: "Colonial America was an open society dotted with closed enclaves, and one could generally settle in with his cobelievers in safety and comfort and exercise the right of oppression."² Thus, Unitarians avoided Anglican or Puritan communities; Puritans stayed away from the Anglican colonies; Quakers and Anabaptists confined their activities principally to Pennsylvania and Rhode Island; and Catholics were concentrated in Maryland. The atheist met with toleration nowhere.

Strangely, again contrary to tradition, the most severe suppression of freedom of expression came not from royal judges or governors appointed by the Crown, but from the popularly elected assemblies. During the eighteenth century especially, the law of seditious libel was enforced in America chiefly by the provincial legislatures. The assemblies, considering themselves immune from criticism, issued warrants of arrest for, interrogated, fined, and imprisoned anyone accused of libeling its members, or the body as a whole, by written, printed, or spoken words. One historian concludes, "Literally scores of persons, probably hundreds, throughout the colonies were tracked down by the various messengers and sergeants and brought into the

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house to make inglorious submission for words spoken in the heat of anger or for writings which intentionally or otherwise had given offense.”³

None of the colonies was an exception. The first assembly to meet on American soil, the Virginia House of Burgesses, decided that a Captain Henry Spellman was guilty of “treasonable words” and stripped him of his rank. The prevailing attitude in the Old Dominion was expressed in Governor William Berkeley’s famous remark, “I thank God, *there are no free schools nor printing*, and I hope we shall not have these hundred years; for *learning* has brought disobedience, and heresy, and sects into the world, and *printing* has divulged them, and libels against the best government. God keep us from both!”⁴

Even in Pennsylvania, reputedly the most tolerant of the colonies, printing was stringently regulated. William Penn himself presided over a council meeting in 1683 when it was ordered that the laws of the colony should not be printed. In what is believed to be the first criminal trial in America involving freedom of the press, Pennsylvania’s first printer, William Bradford, had his press seized by the government, was charged with seditious libel, and spent more than a year in prison for printing a pamphlet entitled the *Frame of Government* which was a copy of the colony’s charter.

The ruling powers were especially suspicious of newspapers. The first newspaper to be published in the American colonies, entitled *Public Occurrences*, expired after its first issue. Issued by Richard Pierce in 1690 in Boston, the paper was immediately suppressed because it mentioned the Indian Wars and commented on local affairs.

A more celebrated event was the trial of John Peter Zenger, a case which contributed greatly to establishing the principle of a free press in British North America. Zenger’s newspaper, *The New York Weekly Journal*, had printed satirical ballads reflecting on William Cosby, the highly unpopular governor, and his council. The issues condemned were described “as having in them many things tending to raise seditions and tumults among the people of this province, and to fill their minds with a contempt for his majesty’s government.”⁵ The grand jury failed to indict Zenger and the General Assembly refused to take action, but acting under the Governor’s orders, the attorney general filed an information. At the trial of the prisoner, in 1735, the defense was conducted by Andrew Hamilton, a Quaker lawyer from Philadelphia who was Speaker of the Pennsylvania Assembly. Despite a packed court, the defendant was acquitted with a verdict based on

the principle that in cases of libel the jury should judge both the law and the facts.

The concept of freedom of speech and press, so strikingly absent in America before the Zenger case of 1735, remained inconspicuous for a considerable period afterward. Leonard Levy's assertion that "it is difficult to find a libertarian theory in America before the American Revolution—or even before the First Amendment"⁶ is doubtless accurate. Benjamin Franklin's celebrated "Apology for Printers," though influential, could hardly be characterized as profound. The first colonial writer to develop a true philosophy of freedom of speech and press was James Alexander, founder of the American Philosophical Society, a prominent public figure and man of versatile talents, who masterminded the Zenger defense. Alexander's *A Brief Narrative of the Case and Tryal of John Peter Zenger* (1736) was a widely known source of libertarian thought in America and England during the eighteenth century. Less familiar, but of outstanding quality, was his four-part essay on the history and theory of freedom of speech, published in Franklin's *Pennsylvania Gazette* in 1737. A primary principle stated by Alexander is that "Freedom of speech is a principal pillar in a free government: when this support is taken away, the constitution is dissolved and tyranny is erected on its ruins."⁷

The framers of the U.S. Constitution of 1787 were educated, highly literate, and widely-read men intimately acquainted with the centuries of struggle between tyranny and freedom that had been going on in England and more recently in America. The long record of oppression and suppression formed a backdrop as the leaders proceeded to build the government of the United States on the sovereignty of the people and their rights as citizens of a republic.

Originally, however, the Constitution did not contain a bill of rights, because the convention delegates at Philadelphia felt that individual rights were in no danger and would be protected by the states. Nonetheless, the absence of a bill of rights became the strongest objection to the ratification of the Constitution. Under the influence of his friend Thomas Jefferson, and yielding to the general demand for a bill of rights, James Madison became the principal draftsman of the first ten amendments.

A basically new approach to the crime of seditious libel was made by the authors of the First Amendment. Even after the victory over censorship in England in 1695, the people continued to view their rulers as their superiors who must not be censured directly in news-

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papers and pamphlets, but only through petitions to elected parliamentary representatives. Now came Madison and his associates who regarded governmental authorities as servants of the people. As stated by Madison, "If we advert to the nature of Republican Government, we shall find that the censorial power is in the people over the Government, and not in the Government over the people." In effect, sedition ceased to be a crime under the broad prohibitions of the First Amendment, though breaches of the peace which destroyed or endangered life, limb, or property were still punishable by law.

The Bill of Rights had been in effect less than a decade when it met with its first serious challenge. In 1798, war with France seemed imminent. Thousands of French refugees were in the United States, espionage activities were prevalent, and radicals supported the French cause. President John Adams even objected to the visit of a group of French scientists, arguing that "learned societies" had "disorganized the world" and were "incompatible with social order." The popular hysteria led to Congress' enactment of a series of alien and sedition laws. One such law made it a crime, for example, to publish any "false, scandalous and malicious" writing against the government, the Congress, or the President "with intent to defame" them or to bring them "into contempt or disrepute" or "to stir up sedition." The crime carried a penalty of \$2,000 fine and two years in jail.

An immediate uproar ensued. One side contended that "a conspiracy against the Constitution, the government, the peace and safety of this country is formed and is in full operation. It embraces members of all classes; the Representatives of the people on this floor, the wild and visionary theorist in the bloody philosophy of the day, the learned and the ignorant."⁸ Such arguments were met with impassioned pleas for freedom of speech and the press, led by Thomas Jefferson and James Madison. The alien and sedition laws became a prime issue in the presidential campaign of 1800. When Jefferson was elected he promptly pardoned all those who had been convicted under the 1798 laws, Congress passed laws remitting fines, and the Sedition Act expired with the Fifth Congress in 1801.

The next major attack on the First Amendment's proscriptions against any law abridging freedom of speech and of the press occurred in 1835, when President Andrew Jackson proposed to Congress the passage of a law which would prohibit the use of the mails for "incendiary publications intended to instigate the slaves to insurrection." A special committee, under the chairmanship of John C. Calhoun of

South Carolina, reported adversely on the proposal on the ground that it was in conflict with the First Amendment, though a majority of the committee was in sympathy with the bill's intent. Calhoun, in turn, introduced a bill to make it unlawful "for any deputy postmaster, in any State, Territory, or District of the United States, knowingly to deliver to any person whatever, any pamphlet, newspaper, handbill, or other printed matter or pictorial representation touching the subject of slavery, where, by the laws of the said State, Territory, or District, their circulation is prohibited; and any deputy postmaster who shall be guilty thereof, shall be forthwith removed from office." The Calhoun bill was likewise defeated.

Counterattacking, the opponents of Calhoun's proposal introduced and succeeded in passing an act that in principle prohibited the post office department from censoring the mail. More than a century later, Judge Thurman W. Arnold in his opinion in the *Esquire* case stated: "We believe that the Post Office officials should experience a feeling of relief if they are limited to the more prosaic function of seeing to it that 'neither snow nor rain nor heat nor gloom of night stays these couriers from the swift completion of their appointed rounds.'"⁹

Three so-called "Civil War amendments," destined to have a profound impact on civil liberties and intellectual freedom, were adopted from 1865 to 1870. The Thirteenth Amendment abolished slavery and the Fifteenth provided that "The rights of citizens of the United States to vote shall not be abridged . . . on account of race, color, or previous condition of servitude." It is the Fourteenth Amendment, however, which is most frequently linked with the First as a protection against censorship and as a guarantee of free expression. Pertinent sections state: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law."

The significance of the Fourteenth Amendment from the point of view of civil liberties lies in the growth of national power as opposed to state power. As John P. Roche points out so cogently:

Specifically, the growth of federal power has led to the implementation of a principle of national protection of individual liberty against the actions of states or municipalities by the judiciary and to judicial decisions excluding the states from areas of jurisdiction of vital significance in civil liberty. Moreover, with a full recognition of the

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dangerous potentialities of unchecked national power, it is contended that the national institutions have provided a far higher level of juridical defense and have shown a far greater sensitivity to the rights of the individual than have the states.¹⁰

Every generation since 1790—in fact, virtually every decade—has redefined and re-interpreted the First Amendment. Though the language is clear and explicit, “Congress shall make no law . . . abridging the freedom of speech, or of the press,” Congress, the courts, and executive powers have repeatedly done, or at least attempted to do, exactly that. One theory used to circumscribe or circumvent the Amendment was use—abuse or liberty versus license. Under this notion, a distinction was made between right and wrong use of speech and press, i.e., liberty as against license. Superseding that doctrine to some extent was Justice Holmes’ “clear and present danger” test, according to which liberty of press and speech would remain unrestricted as long as public safety was not imperiled. A classic example is Justice Holmes’ “fire in a crowded theatre” statement. A new theory that has come into vogue in more recent judicial decisions is “balancing of interests,” as between public and private rights and welfare. All of these theories, it should be noted, infringe on the unqualified guarantees of the First Amendment.

The most blatant attacks on the principles contained in the First Amendment occurred after the two world wars. A notorious case was the raids carried on under the direction of A. Mitchell Palmer, Woodrow Wilson’s Attorney General. On January 2, 1920, one minute after midnight, about 500 FBI agents and police swooped down on 3,000 Russian, Finnish, Polish, German, Italian, and other alien workmen, looking for Communists to deport. The victims were hustled off to jail and arrested without warrants, homes were ransacked without legal authorization, and all literature and letters were seized. Irving Brant suggests that the actual substance of the supposed crime of these hapless victims of Palmer’s “Red Raids” was nothing more nor less than the ancient crime of “compassing or imagining the death of the King,” in this instance “compassing or imagining the death of the Republic.”¹¹

An even more virulent epidemic, from which the nation has not yet fully recovered, is “McCarthyism,” a phenomenon of the early nineteen fifties. The Senate Permanent Subcommittee on Investigations of the Committee on Government Operations was used as a platform by its chairman, Senator Joseph R. McCarthy of Wisconsin, to air his

unsubstantiated, irresponsible charges that the federal government was thoroughly infiltrated by Communist agents. McCarthy's attacks on the U.S. information libraries abroad led to the burning of some books accused of being Communist propaganda, the resignations of numerous librarians, and the closing of a considerable number of libraries because of reduced congressional support.

In past eras religious heresy was a common basis for thought suppression. There is rarely a case of censorship for religious heresy in present-day society. A more persistent ground for attacks on intellectual freedom is unorthodox political opinions, as has been shown in the foregoing discussion. Political questions remain lively and controversial issues in the modern world. A third area for censorial attacks is the problem of obscenity and pornography.

For almost a century after the American Revolution, the United States managed to get along without any censorship laws in the field of obscenity. The full flower of repression bloomed with the Comstock era in 1868, under the inspiration of a young man by the name of Anthony Comstock, who had emerged from the backwoods of Connecticut to lead a crusade against what he considered indecent literature. Under a special act of the New York State Legislature, Comstock organized the New York Society for the Suppression of Vice. The law gave the Society a monopoly in its field and its agents the rights of search, seizure, and arrest—rights which had previously belonged exclusively to the police authorities. The crowning touch came in 1873, when the moral forces obtained the passage of the federal statute entitled the "Comstock Law," which provided penalties for mailing allegedly obscene publications. Hundreds of thousands of books were confiscated and thousands of defendants arrested. Eventually, this kind of censorship was discredited by ridicule, by the growth of liberal thought, by changing literary taste, and by certain landmark court decisions.

In its 1957 decision in the *Roth* case, the Supreme Court made solid progress in striking the shackles of censorship from literature. The Court ruled that a work could not be considered obscene unless it met all of three separate and distinct tests: it had to go substantially beyond customary limits of candor in the description or representation of matters pertaining to sex or nudity; the work must appeal to the prurient interest of the average adult; and the work must be utterly without redeeming social importance. Under the Court's liberalizing influence of the past decade, literature has become increasingly free

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and candid, though a step backward was taken in the *Ginzburg* case in 1965, when the Court ruled that the publisher's method of advertising and promoting a book must be taken into account in judging questions of obscenity.

A new dimension was added in 1968 when an eighteen-member Commission on Obscenity and Pornography was appointed by President Lyndon B. Johnson. It is anticipated that under President Nixon's urging, the commission will recommend some type of strict federal legislation, possibly aimed at counteracting the liberal opinions of the Supreme Court.

The fundamental freedom of the press is constantly under attack and "eternal vigilance," as Thomas Jefferson warned, is required to preserve it. The First Amendment is presumably in no danger of repeal, but it is always imperiled by erosion and qualification. As the federal bureaucracy grows steadily larger and more complex, official interference with the public's right to know is common practice. In his Pulitzer Prize-winning editorial of many years ago, William Allen White had a highly relevant statement applicable to current conditions:

You say that freedom of utterance is not for time of stress, and I reply with the sad truth that only in time of stress is freedom of utterance in danger. No one questions it in calm days, because it is not needed. And the reverse is true also; only when free utterance is suppressed is it needed, and when it is most needed, it is most vital to justice. . . . This state . . . is in more danger from suppression than from violence, because, in the end, suppression leads to violence. Violence indeed, is the child of suppression.¹²

Also memorable is a defense of freedom of expression stated by Supreme Court Justice Brandeis, concurred in by his colleague Justice Holmes:

[Those who won our independence] believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly, discussion would be futile; that with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine; that the greatest menace to freedom is an inert people; that public discussion is a political duty; and that this should be a fundamental principle of the American government.¹³


Perhaps psychologists and psychiatrists may be able to offer ex-

planations for the state of mind which produces censorship pressures. In the United States, since the end of World War II, many Americans have been uneasy about revolutions around the world, the growth in power of the Soviet Union and Red China, and the tensions of the Cold War. At home, the people find themselves trapped in a collective nightmare of choking cities, polluted land, water, and air, casual murders of tens of thousands along the highways, mammoth problems of racial integration, student unrest, and large-scale juvenile delinquency. In a period of tension, frustration, and worry, therefore, the people are prone to attack what they consider a visible enemy, e.g., threatening ideas in published form. Removing subversive books from circulation, they reason, will undermine the Communist controversy, and taking obscene books off the shelves will end juvenile delinquency and stop the crime wave.

But despite the psychological and other handicaps under which the literary world labors, reading materials of all kinds are available to Americans in greater quantities than ever before. Viewed objectively, we remain a free people in the field of reading. It is a freedom, however, that cannot be taken for granted, casually and indifferently.

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The Librarian's Commitment to the Library Bill of Rights

DAVID K. BERNINGHAUSEN

WHAT IS THE MATTER with these librarians? What has got into them to make them charge out of their ivory towers, eager to battle the censors? During the last twenty years many observers of the American scene have asked such questions, for librarians seem to have taken it upon themselves to defend "dirty books," "subversive books," and "blasphemous books." They insist upon everyone's right to read what he chooses. They champion free inquiry against all volunteer arbiters of morals, religion, politics, thought and opinion.

This paper will discuss some of the events and issues that led the American Library Association to adopt the Library Bill of Rights, to establish a Committee on Intellectual Freedom, and to continue to emphasize the vital importance of free inquiry. It will also include comments on some unfinished business regarding the protection of librarians who practice according to their commitment.

It is apparent from the literature of librarianship that before 1939 American librarians were not generally alert to the importance of freedom to read. Very few pieces on censorship in libraries appeared in the index to *Library Literature* before that time. Some of those few articles clearly supported censorship. In 1939, the ALA established the Library Bill of Rights as its official policy regarding censorship, but it would be a mistake to think librarians' concern over the freedom to read began at a certain date. Certain conditions were necessary, or the ALA Council would not have viewed Forrest Spaulding's first draft, called the Library's Bill of Rights, as a desirable policy for the ALA.

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It is probably important that the people of the United States of America are an English-speaking and -reading society. The librarians who adopted the Library's Bill of Rights in 1939 were nurtured on the writings of English dissenters and philosophers such as John Wycliffe, John Milton and John Stuart Mill, and the ideas of American colonists such as Benjamin Franklin and Thomas Jefferson. This is not to suggest that all Americans, or even all the librarians who voted to adopt the new Library Bill of Rights, had read Mill or Jefferson, but it seems a fair assumption that the essence of their thinking about freedom of inquiry had become a part of their American consciousness—at least, enough so that these librarians overcame any feelings of doubt about the propriety of ALA taking a stand for the freedom to read.

The appearance of the Library Bill of Rights formally stated for librarians what they already knew; that movable type was a revolutionary invention, and that the world of man could never be what it had been before Gutenberg. Especially, this world could not be the same for librarians.

Johannes Gutenberg, after he had started the process by which every man—as least every man who could read—might interpret the Bible for himself, is pictured in an old book of stories for children as having had a bad dream in which:

He thought of the great harm which might be done through the printing of bad books—how they would corrupt the minds of the innocent, how they would stir up the passions of the wicked. Suddenly he seized a heavy hammer and began to break his press in pieces. But then a voice seemed to come from the press itself saying, "Hold your hand, John Gutenberg. The art of printing will enlighten the world."¹

Apparently Gutenberg did hold his hand. We have seen the results, and, as with today's questions of how to use nuclear power and technology, librarians understand that printing, like any other technique, may be used wisely or unwisely.

Douglas McMurtrie, the author of *The Book*, is probably prejudiced, but it would be a bold man who would deny his view that in the cultural history of mankind, no event even approaches in importance the invention of printing with movable type. He says, "The mighty power of the printed word to influence human thought and action, for good or ill, has seldom been more clearly shown than in our own day and age, when we see the governments of great nations enforcing

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a rigorous control or even suppression of the press as a necessary means of controlling the opinions and activities of their people.”²

According to Robert Leigh, sociologist and librarian, professional librarians have a firm faith in the value and the virtue of books and ideas, even though they may resist the social scientist’s research attempts at analysis of this faith. Librarians have a keen appreciation of the power of the printed word. After the Library Bill of Rights was adopted, especially after it had been publicized, it became a focal point in the education of librarians, trustees, and the public on the question of what should be the guiding principles for acquisition and dissemination of information through libraries.

And what does it say about preserving the freedom to read?

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The Council of the American Library Association reaffirms its belief in the following basic policies which should govern the services of all libraries.

1. As a responsibility of library service, books and other library materials selected should be chosen for values of interest, information and enlightenment of all the people of the community. In no case should library materials be excluded because of the race or nationality or the social, political, or religious views of the authors.

2. Libraries should provide books and other materials presenting all points of view concerning the problems and issues of our times; no library materials should be proscribed or removed from libraries because of partisan or doctrinal disapproval.

3. Censorship should be challenged by libraries in the maintenance of their responsibility to provide public information and enlightenment.

4. Libraries should cooperate with all persons and groups concerned with resisting abridgement of free expression and free access to ideas.

5. The rights of an individual to the use of a library should not be denied or abridged because of his age, race, religion, national origins or social or political views.

6. As an institution of education for democratic living, the library should welcome the use of its meeting rooms for socially useful and cultural activities and discussion of current public questions. Such meeting places should be available on equal terms to all groups in the community regardless of the beliefs and affiliations of their members, provided that the meetings be open to the public.

(Adopted June 18, 1948. Amended February 2, 1961, and June 27, 1967, by the ALA Council.)

This is the text approved and adopted by the Council of the American Library Association in 1967. The first version was drafted by Forrest Spaulding, Librarian of the Des Moines Public Library, in 1938 or 1939, as a guide to selection of materials in that Iowa library. It was adopted by the national association as an official policy against censorship in 1939. This article will trace events and issues which led to several revisions of the text over the past thirty years.

The Library Bill of Rights has encouraged American librarians to hold tenaciously to the principle that the users of libraries must have the opportunity to examine all information *on all sides* of all controversial issues. It is no accident that the policy avoids the expression "information on *both* sides of controversial issues." The distinction is very important, especially today when political and social stresses tend to polarize many citizens into opposing authoritarian positions, causing them to be intolerant of any expressions that depart from or modify what they hold to be *the truth*. The library profession, in this and other policy statements, emphasizes the necessity for providing a variety of view points on any issue, not merely the extreme expressions or the lukewarm middle-of-the-road statements.

However, if the Library Bill of Rights had not become known to librarians it could hardly be said that the principle had been established.³ In May 1940, the ALA Council created a Committee on Intellectual Freedom. If this committee had not existed, perhaps the Library Bill of Rights would have been ignored and forgotten. Indeed, in its early years the committee had little to do, and in 1944, its chairman Leon Carnovsky reported to the council:

Librarians were invited to report to the committee incidents of attempted interference with the provision of books or periodicals.

Up to the present time, very few incidents have been reported, and the committee has been requested not to publicize them. The lack of information about such incidents may mean that they do not exist—that librarians are generally free from interference in their book selection practices. On the other hand, it may mean that librarians do not care to report interference. Or, finally, it may mean that librarians are so cautious in policies of book selection that they avoid "incidents" before they have a chance to occur.⁴

Carnovsky's report raised some important questions, but not until 1948 did American librarians begin to put major emphasis on the

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importance of free inquiry and the librarian's special responsibility in helping to preserve the freedom to read.

The 1948 ALA annual conference program appeared in the *ALA Bulletin* of May 1948, and along with it was an article by the chairman of the Intellectual Freedom Committee called "Book-Banning and Witch-Hunts." Helen Haines, a staunch defender of the freedom to read, who in fact may have helped many librarians to think about the issue of free inquiry through her guide to selection, *Living With Books*, read an early draft of the paper, but felt that the ALA would not be likely to print such an article. As it happened, however, ALA President Paul North Rice of the New York Public Library saw a copy of the manuscript and sponsored its publication in the *ALA Bulletin*; Rice felt so keenly the need for emphasizing intellectual freedom that he invited several outstanding speakers to address the 1948 Atlantic City conference on the subject.⁵ He also provided a fund for the Intellectual Freedom Committee to sponsor a booth at Atlantic City.

Both the *New York Times* and the *Herald Tribune* gave the conference very good publicity. Most newspapers have continued to give library conferences good publicity when they build their programs around the idea of freedom to read. This is not only a "controversial" issue, it is one in which newspapermen take a keen interest. It is worth noting that free inquiry is now automatically a part of every ALA president's inaugural speech, and that the theme is very frequently included in the programs of state library associations.

In 1951, the Council faced a new issue, does the Library Bill of Rights apply to non-print materials? The Peoria Public Library was attacked by the local American Legion and one of the local newspapers for making available films such as "Human Brotherhood," "Peoples of the USSR," and the United Nations film about the declaration of human rights. The librarian tried to appease the library's critics and his own conscience by removing these items and claiming that the statement did not specifically cover films.⁶ The ALA Council resolved this problem by unanimously adopting a footnote which said: "The Library Bill of Rights shall be interpreted as applying to all materials and media of communication used or collected by libraries."⁷ This statement is no longer a footnote, but is included in the 1967 text.

In 1951, an organization of volunteers interested in imposing their own limitations upon free inquiry used a new approach. The Sons of

the American Revolution in Montclair, New Jersey, declared their opposition to censorship, but tried to force librarians to label all library materials with warnings to potential readers. The Intellectual Freedom Committee, after study of the question, recommended a policy to the ALA which said:

Librarians should not use the technique of labeling as a means of predisposing readers against library materials for the following reasons:

1. Although totalitarian states find it easy and even proper, according to their ethics, to establish criteria for judging publications as "subversive," injustice and ignorance rather than justice and enlightenment result from such practices, and the American Library Association has a responsibility to take a stand against the establishment of such criteria in a democratic state.

2. Libraries do not advocate the ideas found in their collections. The presence of a magazine or book in a library does not indicate an endorsement of its contents by the library.

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6. Although we are all agreed that communism is a threat to the free world, if materials are labeled to pacify one group, there is no excuse for refusing to label any item in the library's collection. Because communism, fascism, or other authoritarianisms tend to suppress ideas and attempt to coerce individuals to conform to a specific ideology, American librarians must be opposed to such "isms." We are, then, anti-communist, but we are also opposed to any other group which aims at closing any path to knowledge.

(Recommended to Council by Rutherford D. Rogers, Chairman, Intellectual Freedom Committee, Chicago, 1951, and adopted by the Council on July 13, 1951).⁸

If this policy had been drafted today, the emphasis upon being anti-Communist might well be muted. In 1951, however, as McCarthyism approached its peak, many people viewed the ALA, and especially the Intellectual Freedom Committee (IFC), as subversive. The fundamental policy is sound and will continue to be useful when any authoritarian group attempts to control libraries or the American Library Association.

This policy against labeling was useful in St. Charles, Missouri, in 1968, when an inquiry about what leftist magazines the library held led to an attempt by the Veterans of Foreign Wars, the American Legion, the Lions Club, and a church to force the library to label

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materials. The St. Charles librarian in her report on this situation cited petitions from these groups which read, with variations, as follows:

I (We), the undersigned, do hereby petition the Library Board of the County of St. Charles, requesting that any book or publication on file in the St. Charles County Library System authored, published, or edited by any individual or group of individuals having been cited by any official Federal or State Un-American Activities Committee or Fact-Finding Committee as subversive or un-American in nature or belonging to any organization having been cited as subversive or un-American, be so explicitly labeled in a conspicuous manner for the information of the patrons of the St. Charles County Libraries.⁹

The distribution in Missouri of two hundred or more copies of the 1951 labeling statement was helpful. However, this policy has not received as much attention as has the Library Bill of Rights. The ALA might well reprint the article and policy on labeling that appeared in 1951.

As each of these new challenges arose, the IFC and the ALA Council had to analyze the issue, determine the size of the threat to the freedom to read, and decide what kind of action was potentially useful. Each time, undoubtedly, the interest and the motivation of those librarians involved was aroused to a high pitch. Undoubtedly also, some members of the profession tended to hold back from taking any controversial stand. Most observers would probably agree, however, that since 1948, the ALA has been in the front lines of the battle against anti-intellectuals who seek to limit the freedom to read.

In spite of a lack of funds, the ALA Committee on Intellectual Freedom has had a remarkable impact upon librarianship. There has been some small financial support for implementing the ideals of the Library Bill of Rights. In September 1951, the Field Foundation set up a fund of \$15,000 to be used by the IFC over a two-year period. This fund made it possible to get the committee together at least once a year, to pay a part-time executive secretary, and to begin a *Newsletter on Intellectual Freedom*. The grant also made it possible to hold the first preconference institute on intellectual freedom at the Bar Association in New York in June 1952. A second conference on intellectual freedom at Whittier College in 1953 sounded the keynote of the annual ALA conference in Los Angeles.

In 1961, the official ALA position on freedom of access to libraries was made clearer by the addition of what is now section five of the

Library Bill of Rights: "The rights of an individual to the use of a library should not be denied or abridged because of his race, religion, national origins, or political views."¹⁰ This issue is closely related to free inquiry, for if library service is inaccessible, for any reason, American citizens do not have the data upon which to base wise decisions.

In 1965 a third conference on intellectual freedom was held at Washington, D.C. The committee recommended the establishment of a legal office in ALA to be charged with responsibility for gathering facts on censorship, for promoting action to guide and defend libraries and librarians in trouble, and for voicing in courts and legislative chambers ALA's opposition to restrictions on the printed word.¹¹ The proceedings of this conference were published by ALA in 1965.¹²

The Intellectual Freedom Committee (IFC) continued its series of conferences in San Francisco in 1967 with special emphasis on intellectual freedom and the teenager.

Major recommendations of the Institute were:

- 1) That ALA (with massive Foundation funding) conduct a study of the effect of reading on behavior.
- 2) That an office be established at ALA, both to coordinate studies and defend librarians.
- 3) That free access to all books in a library collection be granted to young people.¹³

At this 1967 conference the ALA Council approved recommendations by the IFC for revisions of the Library Bill of Rights. Following up the theme of the preconference, a change was made in paragraph five with the insertion of the word "age," so that the paragraph now reads:

5. The rights of an individual to the use of a library should not be denied or abridged because of his age, race, religion, national origins or social or political views.

Another fundamental change adopted by the Council was the elimination of the phrase "of sound factual authority" from section two of the previous version. This phrase unfortunately implied that a library collected only "good" books, thus raising the questions of the criteria by which books are to be judged and who can truly decide which books are of sound factual authority and which are not. The IFC and the ALA Council now say that a library has an obligation to collect

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materials which are *not* of sound factual authority. This is an extremely important point, and library literature concerning it deserves careful study. It is discussed briefly later in this article.

During the years of McCarthyism (1949-1953), the IFC made great strides toward persuading the librarians of America that the publicly supported library and the librarians of the nation are living in the political world and cannot divorce themselves from political issues that involve libraries or the freedom to read. An examination of the literature of librarianship before 1938 shows that earlier librarians tended to hold that librarians should be above or aloof from political problems. As the radical right grew bolder and more censorious, however, librarians began to understand that the values of free inquiry, free scholarship, and free dissemination of ideas actually could be and might be lost, and that if lost, librarians could not possibly give honest reference service or circulate books freely to those who want to read on all sides of an issue.

Through encouraging the establishment of committees on intellectual freedom in the state library associations, through national institutes, through speeches, articles, research reports, and books, and through opposing legislation against the freedom to read, America's librarians have taught each other and their trustees that they cannot live in ivory towers.

Peter Hamlin suggests that political scientists have usually ignored librarians, finding them too timid and fearful and non-political; however his *Case Study of the Fairfax County, Virginia, Censorship Controversy*, 1963, is a fine illustration of the growing awareness by librarians that they are part of the political process. As Hamlin writes:

Libraries can and do become embroiled in heated political disputes. [This is] . . . a classic case of a political struggle over differing concepts of library censorship and freedom. It was the center of a dispute that animated the county for several weeks. The controversy spread to the courts and onto the floor of Congress. It received widespread publicity and involved a great diversity of interested groups. It included a variety of questions: evolution, segregation, obscenity and communism.¹⁴

In the first report of the Activities Committee on New Directions for ALA (1970) there is a list of twelve critical problems of society, about which the committee says that libraries must give information. It is assumed that all ALA members will agree that pollution of our environment, continuing racial discrimination, and our military in-

volvement in Vietnam are critical social problems, and that libraries which do not make freely available the full range of data and opinion on these problems are violating the Library Bill of Rights and the intellectual freedom of their clients.

Many members of ALA question the propriety of a professional organization of librarians taking public stands on a variety of controversial issues. If done indiscriminately this would tend to divide librarians unnecessarily and would weaken the force of the organization. The profession would be diverted from those issues which do concern it, taking up time from a membership or council meeting that might be put to better use.

The ALA, as an educational association, is tax exempt, and is therefore not permitted by law to actively support or work for or against positions on issues that do not involve professional interests. Even if this were to be ignored, the neutrality of the library and the library association on substantive issues, like that of the news media, is held to be essential if libraries are to continue to provide information on all sides of all issues.

Of course it is sometimes difficult to draw the line sharply. Though it would be inappropriate, and probably illegal, for the ALA to take a position opposing the building of an anti-ballistic missile system, or a position promoting the fluoridation of water systems, many librarians would probably be ready and willing to take such positions as citizens. On some issues that directly affect the professional activities of librarians, it is, however, generally agreed that ALA would be derelict if it ignored them.

For example, there is ALA's strong position advocating free access to libraries by all citizens, regardless of race or color. Here is an issue that is clearly related to the work of the librarian in providing information to every citizen. As to whether ALA should also take a strong position advocating equal opportunity for housing for Negroes, it would seem that as a worthy cause it should be supported by librarians as private citizens, rather than as members of the ALA. The ALA has had a long and honorable history of refusing to hold its conferences in cities which do not permit equal access to hotels and restaurants for Negro delegates, and this too is an issue on which librarians have taken a position.

The ALA has consistently heeded the advice of Archibald MacLeish that in regard to censorship and related issues, librarians cannot be neutral. One clearly related issue was the use of loyalty investigations

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in libraries as a means of intimidation of librarians, against which ALA accordingly and appropriately took a position.

In 1948, the IFC joined with the ALA Board on Personnel Administration to recommend a policy against the use of loyalty investigations. The resolution was adopted, but became the subject of debate through three succeeding meetings until finally the matter was resolved by adoption of the following policy:

RESOLUTION ON LOYALTY PROGRAMS

WHEREAS, A Democracy must preserve freedom of thought and expression if it is to survive; and

WHEREAS, Loyalty investigations of library employees may create an atmosphere of suspicion and fear and tend to limit intellectual freedom by rendering it hazardous to hold or express other than popular or orthodox views; and

WHEREAS, Librarians have a special responsibility to provide information on all sides of controversial issues, but cannot do so if intellectual conformity becomes a factor affecting their employment or tenure; and

WHEREAS, The American Library Association has received evidence that loyalty tests may easily lead to the violation of the constitutional rights of library employees, and in some cases already have done so; therefore, be it

RESOLVED, That we, the Council of American Library Association, strongly protest loyalty programs which inquire into a library employee's thoughts, reading matter, associates, or membership in organizations, unless a particular person's definite actions warrant such investigation. We approve the affirmation of allegiance to our Constitution.* We condemn loyalty oaths and investigations which permit the discharge of an individual without a fair hearing. We hold that in a fair hearing the accused is furnished a statement of the charges against him, is allowed to see the evidence against him, is given an opportunity to prepare and to present his defense and to question his accusers with the aid of legal counsel, is presumed innocent until proved guilty, and is given the opportunity, if adjudged guilty, of judicial review.

(Adopted July 21, 1950 by the ALA Council)

The "guilt syndrome" of the late 1960s and early 1970s in America

* Amended by ALA Council by striking out "Government" and inserting "Constitution," January 19, 1970.

has caused many to believe that this is the worst of all times in the worst of all nations. ALA members who were on the firing line during the McCarthy period, however, may reasonably question this feeling. The impact of loyalty investigations went far beyond merely the taking of an oath, though ALA felt that loyalty oaths as a requirement for employment in libraries should be condemned.

The resolution of July 1950, states a position not only against loyalty oaths, but against any kind of loyalty investigation which might intimidate librarians and handicap their efforts to provide information on all sides of all controversial issues. This policy also provides guidelines for the Intellectual Freedom Committee in dealing with cases, especially in its statement of what constitutes due process in a fair hearing. It may not seem a necessary policy in 1970, but with clear evidence of a political swing to the right, some librarians have cautioned against a proposal to rescind this resolution, pointing out that it is more inclusive and stronger than a mere statement of ALA opposition to loyalty oaths. They assert that the following statement of position is not really out of date:

Specifically, our question as professional librarians is: What concept of loyalty should govern library appointments and dismissals?

Loyalty to the United States Constitution and Bill of Rights should be expected of all librarians, but the naive and fallacious belief that this loyalty can be insured by requiring librarians to sign oaths or submit to investigations of their private opinions should not go unchallenged. Librarians, like other individuals, must not be discouraged from reaching honest convictions, even though these convictions may seem unorthodox and objectionable to some.

In a democratic society the only true loyalty which can be considered desirable is that which is a result of unrestricted individual choice. Firm faith in the democratic way of life and freedom of inquiry cannot result from any sort of coercion.

The culture of America, like that of England, has been built upon the intellectual efforts of individuals bold enough to think for themselves. To cow and intimidate educators by warning them that they may be dismissed upon the theory of guilt by association, malicious gossip, or hearsay evidence, is to weaken our democratic life by putting a premium on conformity. Mediocrities will be the only employables in a society which no longer requires proof of disloyal acts, but which dismisses civil servants upon "reasonable grounds."¹⁵

The policy against loyalty investigations, and the consideration of the need for such a policy by librarians also strengthened the position

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of the Maryland librarians who opposed the Maryland Ober Law. One Quaker librarian was fired because she refused to sign a loyalty oath, and in 1950, at the Cleveland Conference, ALA unanimously adopted a resolution recording its opposition to the Maryland Ober Law, because, as Council said in its resolution: "We believe it to be a definite threat to the constitutional rights of librarians since it permits their discharge on the principle of guilt by association in lieu of direct evidence of subversion, and we support the Maryland Library Association in its efforts to have the law repealed."¹⁶ These resolutions are evidence that ALA has for twenty years been willing to take forthright stands, even against popular opinion, when its members could see a direct and inescapable interest by librarians in a public issue such as loyalty investigations.

One persistently nagging problem is apparent in this story of how the American Library Association, through its Committee on Intellectual Freedom, established and maintained its official policy on censorship—the Library Bill of Rights. How can librarians who are committed to the ideals of the library profession be protected against the volunteer censors who wish to limit the freedom to read?

This question is now receiving much attention in ALA conferences and in library literature. It seems likely that it will soon be resolved more satisfactorily, but it is worth noting that as long ago as 1948, the executive board of ALA wrestled with the difficulty of determining which agency should deal with cases in which librarians were dismissed because of censors' disapproval of the collections in their libraries. Should such a case be handed over to the ALA Board on Personnel and Tenure, or to the Committee on Intellectual Freedom? Clarence Graham of the Louisville Public Library and President of ALA in 1950-51 then advocated that the association should develop a defense fund and procedures to protect librarians.

Also, as long ago as 1949, a policy and procedure regarding tenure investigations was adopted. In January 1957, responsibility for implementation was assigned to the Library Administration Division of ALA.¹⁷

Apparently the policies on labeling and tenure are not as well-known as is the Library Bill of Rights. Perhaps library schools have not succeeded in impressing future librarians with the importance of the librarian's responsibility to preserve the freedom to read.

However, since many students in library schools tend to consider any issue of twenty years ago (or even of ten years ago) as of histori-

cal interest only, it is not always easy to alert them to their responsibilities regarding this issue, which will never be resolved once and for all. As new people join the field of librarianship they could and should learn about ALA policies on labeling, censorship, and tenure while in library school.

For example, one librarian in writing about his "Skirmish with the Censors"¹⁸ revealed a certain lack of knowledge and sophistication, and although he apparently learned something from his experience, anyone who accepts a position in a private, religiously-supported college is naive if he expects to find that it operates on the ideal principle of free inquiry. However unpalatable it may be to most librarians, in our pluralistic society a private library has every right to put the blinders of its choice upon its readers. Many private institutions, of course, do choose to maintain free inquiry, but the distinction between a publicly-supported library with an obligation to preserve freedom to read, and a private library which has no such obligation should be clarified and emphasized in library schools.

Further progress toward protecting librarians was evident at the Atlantic City ALA conference of 1969 where the ALA Council approved a program of action in support of the Library Bill of Rights. The Office for Intellectual Freedom and the Committee on Intellectual Freedom have announced that they are "ready, willing and able" to take action on complaints of violations of the Library Bill of Rights. On receipt of a written and signed complaint, the Office will supply a standard form to be completed, signed, and returned to the Office by the complainant. Complaints may be received from ALA members directly, through the state Intellectual Freedom Committees, or from anyone else.

In 1970 the old question of which ALA agency should deal with a specific case arose again because of the section on "Intellectual Freedom" in the tentative statement of the New Directions Committee. On page two of this section the following item appears:

The scope of Intellectual Freedom encompasses more than just the Freedom to Read. Support must also be rendered to the librarian who is fired for sporting a beard, for expressing unpopular opinions as a private citizen, for engaging in civil rights activities, etc., etc.

Probably most ALA members will agree that a librarian should not be fired for wearing a beard, and they will also perceive that if this is a tenure case that the Intellectual Freedom Committee should turn

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it over to the Library Administration Division, since it does not actually deal with intellectual freedom. Most members will agree that a librarian, *as a private citizen*, is entitled to his personal intellectual freedom and should not fear the loss of his job because he expresses unpopular opinions or engages in civil rights activities.

Here is a repetition of the old confusion that held ALA back from positive action to protect librarians who acted to preserve free inquiry in libraries years ago. The Library Bill of Rights was not written to protect librarians, but rather to protect the intellectual freedom of library patrons. The rights of librarians, as citizens, are protected by the United States Constitution and the Bill of Rights.

A tenure case is clearly also an intellectual freedom case 1) if censorious restrictions on the library's acquisitions program result in a lack of information on some sides of a substantive issue, or 2) if even though there is a wide range of materials in the library, the librarian withholds some of the information from the client. In either case, the library user's freedom of inquiry has been restricted and the Library Bill of Rights has been violated. Also, if either of these conditions exist because the librarian has misused his professional position to promote his personal beliefs, he has violated the Library Bill of Rights in the fundamental sense, and should not be protected by ALA.

Undoubtedly, the Intellectual Freedom Committee will be confronted by some tangled and sticky cases which will require thorough investigation, similar to that done by the Committee on Academic Freedom and Tenure of the American Association of University Professors. It will be unreasonable to expect instant resolution of such cases. Probably the best guideline for the IFC will be to determine whether the librarian has acted to preserve free inquiry for his clients in his professional duties as a librarian, and, if so, the case is one for the IFC. If the librarian has been fired for his activities as a citizen, it is probably a case that should be turned over to the ALA's library administration division.

The old jurisdictional problem will be resolved by giving the case to the IFC to determine its jurisdiction and responsibility to act. It may decide to refer the matter to the library administration division as a tenure problem or to the American Civil Liberties Union as involving a vital civil rights issue. It may also decide whether to involve the local or state intellectual freedom committee. If the IFC decides to become involved, it will then investigate the matter along the lines

of the "Policy and Procedure Regarding Tenure Investigations" mentioned above.¹⁹

At the time of this writing there were two defense programs under the auspices of ALA. One of these permits the Intellectual Freedom Committee to solicit gifts of money in support of the Library Bill of Rights. The other is the Freedom to Read Foundation, incorporated in Illinois in November 1969. Presumably, this foundation will enable the IFC to provide legal support and other kinds of aid to persons suffering due to actions taken by them in maintaining the ideals of intellectual freedom. There is also the National Freedom Fund for Librarians, based in Pittsburgh, Pennsylvania, and developed in direct response to the firing of Ellis Hodgkin as librarian of the Martinsville (Virginia) Public Library.

And in the future? There are indications that younger librarians are keenly interested in preserving the freedom to read, whether or not their library school emphasized its importance. At the lively ALA conference of 1969 in Atlantic City, it was even suggested that ALA should devote *all* of its resources to promoting intellectual freedom and federal support for library services.

This interest by younger librarians augurs well for the future, and it might be well to examine the following statement about the librarian's commitment: *It is unethical for a librarian in a publicly supported library to suppress statements he does not like, or to exclude expressions of ideas that are objectionable to any religious, political or other organization to which he belongs. A professional librarian's first commitment must be to preserve intellectual freedom for everyone.*

This description of the librarian's commitment will be unacceptable to anyone who is so dedicated to a particular party or cause that he considers it proper to further that cause by *any means whatsoever*. This is by no means an uncommon attitude today as our society tends to become polarized.

There is one argument on this point that obviously appeals to some, namely, that books expressing criticism of religions, or books alleged to foster hate, bigotry, racial superiority, and the like should be excluded from libraries. Paul Blanchard's *American Freedom and Catholic Power*, or Houston Chamberlain's philosophy of history that is clearly anti-Semitic, might be cited as examples. Today some librarians believe that the "underground press" and also publications of the radical right should be collected in libraries. To others this material seems to preach hate and foster bigotry, and should therefore be

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banned. But when any librarian is tempted to include only what *he* considers "good" books in his collections, to promote the causes in which he believes, then he cuts the ground from beneath his feet for resisting censorship when his opposite number violates the principles of the Library Bill of Rights in the opposite direction. The librarian who puts himself in this position has no defense for his conduct when a citizen of a different persuasion challenges his decision. This argument is no more valid as a guide to library practice when it is advanced by a civil libertarian than when it is made by a Daughter of the American Revolution, or a John Bircher.²⁰

America's librarians cannot afford to be neutral about their commitment to preserve the freedom to read for everyone. At the same time, as professionals, they must remain neutral about the issues of the day, regardless of what they may do as private citizens. This truth may be even more difficult to understand and to accept as polarization around certain dogmas grows in our society. However, there are always great dangers to civilization when even a small percentage of the population become fully convinced that they and they alone have *the truth*. As one editorial puts it:

If western intellectual tradition teaches anything, it teaches that truth is not found by drinking at the font of any dogma. It is found in the open and honest clash of ideas. Diversity is the lifeblood of the intellectual class, provided it wants to remain a class of intellectuals rather than haughty but narrow-minded mandarins.

Intellectuals and their camp followers, then, ought to be especially wary of pressure toward conformity. The growing tendency in their community works in the opposite direction, and it poses a peril to both them and the nation.²¹

The dogmatism of the person who knows that he alone possesses the truth is, of course, not new in this world. A clue which may help librarians to identify the extremist who feels it his duty to use any means to promote his views and exclude all other views from a library is his tendency to insist that "If you are not with me, then you are against me." Probably no group, under or over thirty, black or white, religious or anti-religious, of the political left or the political right, is without a few members who are so extreme, so rigid, so intransigent that they sincerely believe that anyone who does not view the world precisely as they do should be forced to conform or cease to exist. Librarians and the ALA are increasingly under pressure from all such

superegoists when they try to control the information available through libraries.

In the New Directions Subcommittee report on social responsibilities, the "traditional, conservative" definition of social responsibility is rejected and, it is stated:

The second definition of Social Responsibility is considered radical, new, activist. It can best be summed up by a definition put forth by ALA's Committee on Organization: "Social responsibilities can be defined as the relationships that librarians and libraries have to non-library problems that relate to the social welfare of our society." It is this second definition that we will have to deal with. Events at the ALA in June, 1969, and the tenor of feeling among newer librarians and many established members of the profession as well, force us to accept this latter definition of social responsibility. We believe that debate is no longer necessary. The time has come for action. The ALA has to embrace this latter definition and carry programs forward to support it.²²

This is not exactly a persuasive statement to librarians who are committed to the Library Bill of Rights as a statement of the obligation of libraries and librarians to provide free access to all citizens, to a full range of facts, theories, and opinions on the controversial issues of the times. For thirty years, American librarians have fought to keep the debate going, to keep the channels of communication open to everyone, and have based their position upon a concept of a publicly supported library which is neutral on substantive issues. An endorsement of the notion that libraries and the ALA are to become advocates, taking stands on the public issues of the day, the thousands of issues we face as citizens, would mean that the profession no longer would have a rational basis for insisting upon intellectual freedom for all.

Perhaps it appears that there is something paradoxical about the vigorous opposition to thought control expressed by "timid" and "conservative" librarians. Lay observers are likely to view the keepers of books as, by nature, rather conservative. Since it is one of the peculiar functions of librarians to preserve the records of man's dreams, failures, and achievements, there is really nothing very remarkable about their respect for old traditions.

But, is there any actual paradox? Is it surprising to find librarians seeking to preserve the freedom of every citizen to read what he wishes and to form his own opinions? It is apparent that American librarians, once alerted to their responsibilities as guardians of intellectual free-

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dom, have accepted a commitment to the ideals expressed in the Library Bill of Rights, the policy against loyalty oaths and investigations, the policy against prejudicial labeling, the School Library Bill of Rights, and expressed in even more detail in the "Declaration on the Freedom to Read," jointly sponsored by the American Book Publishers and the American Library Association.*

There is no paradox here. Philosopher Alfred North Whitehead called attention to two principles which he considered inherent in the very nature of things—the spirit of change and the spirit of conservation—and he suggested that there can be nothing real without both. Mere change without conservation is a passage from nothing to nothing—mere conservation without change cannot conserve.²³

By accepting the commitment, by accepting the challenge to act as conservators of the American heritage of free inquiry, librarians have recognized and accepted *both* of Whitehead's principles. They have preserved the most precious of our traditions, freedom of inquiry, and stood ready to welcome the new concepts, the new theories, the constructive thought of creative minds. Librarians have thus helped to provide the opportunity for the continued advance of knowledge and the growth of individuals.

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Libraries and the Climate of Opinion

ERVIN J. GAINES

IN ANY SOCIAL SETTING, censorship is a weapon of the dominant group. It is the means of exercising social control in favor of prevailing doctrines, whether political, economic, theological, moral—or any combination of them. Censorship is effectively exercised only with the participation of the executive, legislative and judicial processes of government, for through enforcement of laws and the punishment of those who offend those laws the purpose of censorship is achieved. In the absence of repressive measures by the constituted authorities, censorship is rendered ineffectual and freedom is maintained for society. Voluntary censorship within, for example, a religious sect or any other tightly knit subcultural group whose members have by common consent decreed a set of exclusionary doctrines, is an entirely private matter and need not concern us, because it is a legitimate exercise of free choice, which is the essential ingredient of liberty. The right *not* to read is the obverse of the right to read, and both are defensible.

Conflict within democracy arises when any group attempts to impose its definition of acceptable communication upon the entire society by enacting laws which the enforcing arms of government—police and the courts—are obliged to inflict on those who do not conform. It is important to focus on the distinction between the proselytizing by individuals or organizations who are committed to limited expression on the one hand, and officially condoned censorship imposed by the state on the other. The first is acceptable, the second is not.

Some perspective on the history of censorship is helpful in understanding our present circumstances. Ralph E. McCoy's splendid bibliography¹ is the most nearly complete guide to writings about censorship ever assembled in the English-speaking world. Containing about 8,000 entries, it spans several hundred years, and it enables us

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to detect the rhythms of censorship in modern times. What anyone could have inferred is clearly demonstrable in McCoy: official censorship fluctuates with social tensions. As fears of social danger rise, censorship activity rises with it; when the one subsides, so does the other.

The first great wave of censorship swept the Western world in the sixteenth century after the printed book helped to precipitate the Reformation and Counter-Reformation movements within the Christian Church. The Catholic *Index Librorum Prohibitorum* was an invention to blunt the thrust of the Protestant revolt. It remained a viable instrument as long as the internecine struggle continued and it faded only when the institutionalized forces of Christianity decided to terminate their 500-year contest for domination.

In England, after the Reformation, three distinct epidemics of censorship controversy raged. The first, during the seventeenth century Puritan attempt to consolidate control of the government, inspired the most eloquent of all works on the subject, Milton's *Areopagitica*. Although the debate over the right of the state to impose its will on free expression did not by any means disappear during the eighteenth century, it was conducted at a much lower pitch until it intensified again during the French Revolution and the Napoleonic period. So passionate was the struggle from 1790 to 1820 that notable authors like Byron and Shelley exiled themselves rather than endure what they regarded as the harsh and repressive climate of English society, while many lesser authors who remained behind suffered imprisonment and other forms of harassment for refusing to conform to the prevailing wisdom. The hundred years between Waterloo and the outbreak of World War I were relatively calm, and even though from today's vantage point Victorianism is regarded as especially repressive in sexual matters, there was a widespread social acceptance of the prevailing sexual mores, and authors displayed almost no rebelliousness at the constraints precisely because they felt none. Hence, Englishmen showed small disposition to joust with the authorities. Flurries of discontent, especially during the last decade of the nineteenth century, were quickly snuffed out. But after World War I, when literary giants like D. H. Lawrence and James Joyce (both of whom had exiled themselves for reasons that recalled those of Byron and Shelley) clashed with officially acceptable literary conventions, the censorship battles took on a renewed seriousness that has continued until today. Upon reflection, one is moved to suggest that we are at

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the tag-end of the sexual revolution, and that what Joyce and Lawrence stood for has been established, if not yet completely accepted.

The American experience parallels the British. The most eloquent statements about freedom of the press tended to occur immediately following the onset of the American Revolution and, in some ways, were probably a reflection of the European ferment; the issue of a free press in the United States was most fiercely contested around 1800, focusing especially on the Alien and Sedition Acts. Generally, the nineteenth century was so calm on the pivotal question of censorship, that the quixotic Anthony Comstock operated virtually without demur from the authors who towered over the literary scene in the years after the Civil War. As in Great Britain, World War I was the watershed experience that precipitated new attitudes and a renewed dedication to the principle that authors must be free of governmental intervention. The 1920's proved a lively time, leading inexorably to the importation of Joyce's *Ulysses* followed by the censorship battles that have embroiled the Supreme Court over the last fifteen years. Now the United States seems almost ready to yield the point that sexual writings cannot be interdicted by the state. We know that Denmark has already crossed the last barrier, and it is likely that the United States will soon follow.

It may be useful to ponder for a moment the meaning of Anthony Comstock in the long warfare over intellectual freedom. After the distractions of the Civil War, the United States became intensely preoccupied with industrial and territorial expansion, possibly as a reaction to the emotional excesses that had accompanied the great struggle to end slavery and to save the Union. The finer points about human rights were dulled in the coarser dialog of the market place. A zealot like Comstock could move freely in such an environment, both because few thoughtful men particularly cared and because they construed his efforts as harmonious with the interests of those who labored in the industrial and business communities. Questions of civil rights, in all their prickly ramifications, had their renaissance after the sour and disillusioning experience of the First World War, and the special issues arising from censorship were deeply interwoven with them. The collapse of Comstockery coincides exactly with the fierce struggles that occurred over the infamous Palmer raids, the Sacco-Vanzetti trial and other manifestations of American dissatisfaction with the *status quo*. The arguments about censorship are perennial, and the current issues are not critically different from those

which arose during the early days of the republic. The safety of the state as achieved through "right thinking" is the rationale for censorship, and the freedom of the individual to dissent is the rationale for a free press. While it is hard to imagine Thomas Jefferson in the same milieu as Philip Roth or Eldridge Cleaver, the axial concept on which those minds turn is identical.

American thinking just now is modified by special circumstances—some of which are probably temporary and will have no lasting influence; others permanent and of increasingly cumulative force. These circumstances might be sorted out and the ephemeral ones disposed of first, both because they are superficial and because they are more prominent in the popular eye. Since the advent of the Soviet Revolution, which coincided with World War I, the United States has been under powerful psychological pressure to compete with another system. America's manifest destiny to bring light to the world has never been quite the same since the Russian Bear got on to the highway in front of us, which has caused us to push to "prove" our superiority. Although historical analogy suggests that this combative competition between Communism and democracy will eventually subside, its existence here and now heightens tensions and leads to some extraordinary inner conflicts in American society. Because a great deal of the censorship debate in recent decades has related to the international conflict, authors and institutions have suffered popular and even official opprobrium for allying themselves with causes that apparently or actually support the "enemy." The combined stimuli of fear and patriotism have prompted attacks on internal traitors or deceived innocents, and the United States has developed a rather extensive rhetoric of vilification to hold dissenters in line. The peak time for this censorship activity was about 1950, when Senator Joseph McCarthy led the American purge campaign. Although this effort is not as intense as it was, it has never been wholly absent from our society in the last half century, nor is it likely to disappear until some permanent accommodation is made with the Soviet Union.

The ideological campaign against Communism in many ways resembles the earlier conflict within the Christian Church, and it often results in strange paradoxes. Political conservatism allied to anti-Communism seems to inspire a rather intense puritanism against sexual writings, as though there were some moral imperative to relate personal behavior to political beliefs. The tortuous thinking that causes John Birch Society adherents to equate juvenile sex education pro-

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grams with Communist plots has a kind of mad logic to it that is difficult to deal with on a rational basis. Were it not so painful in its consequences, let us say, to teachers who would like their students to read *Catcher in the Rye*, it would be comic, for the rabid conservative neglects to observe that the Communist ideology is equally concerned with purity in personal behavior. Sexual puritanism is not a monopoly of Western democracy, and we may recall that many a Soviet writer has felt the iron hand of official disapproval for daring to contravene the older sexual codes. Hence, American conservative disapproval on political grounds of free sexual expression in literature is not valid, although we may expect it to continue simply because patriotic appeal is often the readiest way to quell dissent.

This anomaly in the American censorship movement may be illogical, but it is prevalent and troublesome because it aligns powerful social forces against the individual's assertion of his own dignity. Similarly, the revolt of the Blacks and the young evoke excited responses pointing to repression of their means of communication—the *Berkeley Barb* for example. America is particularly troubled at this moment by student restlessness and rebelliousness. As the nation goes through a transition from older conventions and relationships among the various races and between adults and the juveniles, literature not unexpectedly is often cited as the culprit. Concerns and anxieties that have been aroused while the social foundations move and shake have provoked extravagant claims about the evil effects of license in literature. If pornography is not at the root of our troubles, the argument runs, it must be at least a causative factor, and if the older literary conventions can be restored, then the revolutionary upheavals may cease. A boy who has ready access to dirty pictures is more likely to be corrupted than one who does not; ergo, forbid them.

But, if my premise that the Communist threat and the Black and youthful revolts will in time subside is correct, we may expect that the pressures for censorship will subside with them. Past experience and a reading of the history of censorship lends confidence to this prediction. Aside from such speculation, however, there remain other and more difficult accommodations to be made, and these seem to relate to technology. Again, taking our point of departure from World War I, we observe that what has happened since then to cause turmoil and conflict over the permissive limits of expression may have less to do with politics and sex and much more to do with the invasion of our thought processes by newer means of communication. The strategy

for dealing with communications in our legal codes is based on the printed word. The advent of the motion picture may have posed the first problem to us. It is instructive, for example, that earlier in the century the motion picture was regarded as lying beyond the protection of the First Amendment to the Constitution. In 1915, the Supreme Court held that films were "entertainment," and not until the *Jacobellis* case of 1964 did the Court accept fully the analogy between print and film by providing the legal basis upon which film-makers could assert their claims for protection at least equal to those of publishers and authors. The time lag between the popularization of the motion picture and the acceptance of it on the same legal footing as the printed word was not very great in historical terms, but when the forty-nine years are considered against the rate of change in our technology, the lag is quite serious. The motion picture was not accepted until after television had already made its first smashing impact upon our world. What we now face is a further struggle to assimilate this newer means of communication into our social institutions even though television's effect upon us is barely understood. Technology has created a communications revolution with which we do not know how to cope. It is evident from the tenor of popular discussion that awareness of the deep significance of the change is lacking in our manner of communicating.

In a recent symposium of historians, as reported in *Daedalus*,² discussion was given to the perplexity of historians in securing the documentation which traditionally has provided the basis for understanding historical developments. The use of the telephone and the increasing tendency to destroy records created during the formulation of important policy decisions are making problems for scholars. For librarians, the implications of verbal and visual displacement of the printed word are enormous. Not only are we faced with the diminution of certain kinds of documents, but we are increasingly baffled by our inability to identify the sources of the messages. One does not have to accept or reject the histrionics of Marshall McLuhan; it is enough to acknowledge that he has invited attention to a phenomenon of incalculable dimensions. We no longer have time to deliberate on our circumstances and to forge the instruments for dealing with the perplexities that beset us. Events outrun our institutional constructs for dealing with them. It is no wonder that rumblings of a social earthquake can be heard. Technology is ahead of us and is likely to remain there. By the time we have learned to live with television, personally,

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legally, politically and socially, we will find ourselves beset by still newer means of communicating across the barriers of political boundaries and social taboos.

Against this quickly sketched background, where is the place of the library and the librarian? It has occurred to me, as I am sure it has to others, that the pressures upon libraries are greatest at those points where public tax money is involved. Private libraries are virtually unassailed. Even in the heyday of the Watch and Ward Society in Boston, when the Boston Public Library was most circumspect in its dealings with the community, Harvard University remained apart from conflict because it lay outside the sphere of public control. State-supported institutions have not always been so fortunate.

Public and school libraries are in the most exposed position of all because they are most accessible to democratic control and because they are closely involved with children. Accountability and social responsibility weigh most heavily upon these libraries. Vulnerability to criticism is also one of their outstanding characteristics. One noisy citizen has the power to upset the functioning of a school or public library in a way not accessible to him if he reaches toward the better-protected university which is surrounded by moats of tradition and respectability that the newer libraries do not have available for their defense.

In saying this I do not mean to express regret for the absence of more effective shields. In a democratic society, the very openness of the institutions is of high value in promoting egalitarian aspirations. The public and school libraries are sensitized to the dangers and the opportunities presented by democratic control and are less likely to fall into somnolent disregard of human need. If all the casualties in the fight for intellectual freedom are in the public libraries, they only tell us where the fight is. The sense of danger adds excitement to the enterprise, and we might suggest what Henry V said before the battle of Agincourt:

Gentlemen in England now abed
Shall think themselves accurs'd they were not here,
And hold their manhoods cheap while any speaks
That fought with us upon St. Crispin's day.

It is certainly in the interest of intellectual freedom to go through the daily grinding battles, to knock the shackles off men's minds and help the individual citizen through the miasma of his fears and anxie-

ties to the higher ground of reconciliation and acceptance. The library that has not experienced a battle is quite likely a library that has not attempted to challenge the conservative mores of a community by making available new and daring material.

The climate of librarianship is probably better than it was even as recently as the late 1950s when Marjorie Fiske's *Book Selection and Censorship*³ revealed the timidity of librarians. There seem to be more librarians ready to risk their jobs in behalf of a more viable intellectual atmosphere within their institutions, and they are having more success. The American Library Association is bolder than it was and it seems now to be taking more seriously than ever before its responsibility not only to advocate but also to fight. These are good signs, and they should not be overlooked.


The most conservative area of librarianship now seems to be in children's work, both in public and in school libraries. The older traditions are still dominant, and the reluctance of school librarians to adopt a code equal to the Library Bill of Rights is a sign of the laggardly development of freedom for children within the context of the school library. True, the problems of intellectual freedom in children's services are intertwined with questions of responsibility for protecting the young in their tender periods of growth; nevertheless, it seems possible to make greater efforts than many librarians are willing to put forth to expand intellectual horizons at an earlier age.

In public libraries there is still a tendency for juvenile book selection to be less inventive than adult, and the hoary practice of marking children with special library cards that restrict their access to vast collections and services of the library not only diminishes the dignity of children but also inhibits their growth into the adult community.

In these areas of librarianship lies the greatest opportunity for the expansion of intellectual freedom in the next decade.

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Public Library Governing Bodies and Intellectual Freedom

ALEX P. ALLAIN

THOUGH INTELLECTUAL FREEDOM defies precise definition, the right to seek answers to the questions that the mind propounds and to be stimulated to ask more questions must be included in our attempts at definition. Included must be the right to be challenged by encountering alien, even offensive, ideologies. Included must be the duty to seek such challenge, for only a belief which has been challenged is held with any kind of certainty. Included must be the right to encounter not only the great minds of the past and the great minds of the present, but also the second rate, the third rate, the mediocre, and even the inferior minds. Included must be the right to read what they have produced, to be stimulated, moved, repelled by their ideas, their portrayal of life, and their reaction to the human situation. Included must be the right of access to a rich and varied collection in every one of our public libraries, a collection, not only of books, magazines and pamphlets, but also of tapes, pictures, films, recordings and all other material from which knowledge can be derived. The public library, accordingly, must be the bastion of intellectual freedom.

The mortal enemy of intellectual freedom is, of course, censorship. Censorship not only stifles the opinions and theories which have been expressed, but also those which might come to life if eager minds were allowed to receive the suppressed ideas, to elaborate them, or to refute them. Censorship ever leaves us unsure of the beliefs we hold, for, as John Stuart Mill pointed out:

The beliefs which we have most warrant for, have no safeguard to rest on, but a standing invitation to the whole world to prove them

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unfounded. If the challenge is not accepted, or is accepted and the attempt fails, we are far enough from certainty still; but we have done the best that the existing state of human reason admits of; we have neglected nothing that could give the truth a chance of reaching us . . . this is the amount of certainty attainable by a fallible being, and it is the sole way of attaining it.¹

Public libraries in this nation are, by and large, governed by boards of trustees. These boards are either appointed or elected. In some instances city managers or other trained officials prefer to deal directly with the librarians without the interposition of a policy-making body. But whatever the nature of the governing body, its function is a public trust and its obligations include employing a competent and qualified librarian as well as determining and adopting written policies to govern the operations and programs of the library. The most important policy a governing body must make is that involving book selection. The following statement is an example of a book selection policy which clearly sets responsibilities and fulfills a board's obligation to intellectual freedom:

The board of this library recognizing the pluralistic nature of this community and the varied backgrounds and needs of all citizens, regardless of race, creed or political persuasion, declares as a matter of book selection policy that:

1. Books and/or library material selection is and shall be vested in the librarian and under his direction such members of the professional staff who are qualified by reason of education and training. Any book and/or library material so selected shall be held to be selected by the board.
2. Selection of books and/or other library material shall be made on the basis of their value of interest, information and enlightenment of all people of the community. No book and/or library material shall be excluded because of the race, nationality or the political or social views of the author.
3. This board believes that censorship is a purely individual matter and declares that while anyone is free to reject for himself books which he does not approve of, he cannot exercise this right of censorship to restrict the freedom to read of others.
4. This board defends the principles of the freedom to read and declares that whenever censorship is involved no book and/or library material shall be removed from the library save under the orders of a court of competent jurisdiction.

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5. This board adopts and declares that it will adhere to and support:

- a. The Library Bill of Rights, and
- b. The Freedom to Read Statement adopted by the American Library Association, both of which are made a part hereof.²

It should also be understood that the role of a governing body and that of the librarian are separate and distinct. The librarian's function is administration as opposed to the board's, which is policy making. The distinction is analogous to that between a board of directors and a manager.

It is also essential that governing bodies of libraries realize that their obligation is not to themselves, but to the community, and that this obligation precludes imposing their own prejudices, preferences, or views. It should be clear to all governing bodies of all public libraries, including those commissioned to govern the state libraries, that censorship of any form is abhorrent in a free society. A people haunted by fear, crushed by oppression or ruled by a dictator might accept censorship as did some of the people of other nations who saw the great burning of the books, but despite the cries from the conservatives, the do-gooder, the self-righteous, the bigot, and the well-meaning, no American with any sense of history and an understanding of the value of liberty will tolerate censorship. Rights of individuals in a rapidly growing society do seem to shrink. The very number of people makes the exercise of rights more difficult. Rights, however, must be defended more and must even be cherished more; if man is to live free despite the pressure to conform, all of his rights must be defended, especially his right to read.

Basically, censorship attacks come in four broad categories: political, religious, social, and pornographic. There are those who would suppress political viewpoints in order that their own might prevail, there are those who would suppress religious ideas in order that their own creed might gain ascendancy, there are those who would suppress racial and social theories in order that their own might gain credence, there are those who would suppress what they are pleased to call obscene, pornographic, lurid, or indecent literature in order that they might impose upon society their own views of morality. One might be inclined to admit that there is a great deal of garbage being passed off as literature, but one should also remember what Thomas Jefferson had to say about censorship:

I am really mortified to be told that, *in the United States of America*, . . . a question about the sale of a book can be carried before the civil magistrate . . . are we to have a censor whose imprimatur shall say what books may be sold, and what we may buy? . . . shall a layman, simple as ourselves, set up his reason as the rule for what we ought to read . . . ? It is an insult to our citizens to question whether they are rational beings or not.³

Thomas Jefferson championed the right of free expression even for those who opposed his political ideas. So strong was his opposition to a constitution without a bill of rights that he originally opposed the adoption of the Constitution because it included no safeguards of rights, though he was eventually persuaded that the Constitution should be adopted as written, and a bill of rights added as soon as possible. Jefferson's Virginia Statute of religious freedom was the model for the freedom of religion clause in the First Amendment. Jefferson, one of the best-educated men of his day, undoubtedly knew of Socrates and Euripides and the trouble which they had with censorship, though it did not bear that name then. He undoubtedly knew of the clash of religions in the first centuries of the Christian era which gave rise to bitter attempts at thought suppression when the early Christians were tortured and put to death to force them to worship the emperor, a sacrilegious act in their view. He undoubtedly was aware that as soon as Theodosius made Christianity the sole legal religion of the Roman Empire, the Christians began persecuting the pagans. A man of his learning would have been familiar with Arius, Origen, Donatus, Pelagus, and Nestorius, all of them victims of orthodox intolerance, and all major thinkers and writers of Western civilization. He must have known of Roger Bacon's scientific experiments which earned him the enmity of his Franciscan brethren and landed him in jail, of Pierre Abélard's theological treatise which was condemned at the Council of Sens and destroyed, of Vesalius hounded into abandoning his brilliant anatomical researches, of Galileo forced to recant his subversive belief that the earth revolves around the sun, and of Lorenzo Valla persecuted because his examination of the donation of Constantine had exposed it as spurious. Though men tend to forget the lessons of history today, fortunately for us this was not so with our forefathers who understood that our world would be infinitely poorer if these men had been silenced, as it is infinitely poorer because of the works which persecution prevented them from writing.

Article I of the Bill of Rights provides that "Congress shall make

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no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the rights of the people peaceably to assemble, and to petition the Government for a redress of grievances." The protection of certain rights, including freedom of speech, appeared so important to the founding fathers that this article is the only one which expressly forbids Congress to make laws.

It is true that rights are not absolute. For example, no one has the right falsely to cry "fire" in a crowded building, nor can anyone slander another, but in both examples the exercise of right caused harm, and in both instances the harm could be punished because it was a provable effect. In 1919, Article XVIII was enacted, banning the manufacture, sale, or transportation of intoxicating liquors. This great social experiment was terminated in 1933, when it was found that the sale and transportation of intoxicating beverages apparently could not be controlled. No sane person will deny that there is a causal relationship between drinking and behavioral patterns. It should also be noted that approximately 50 percent of the fatal accidents on highways can be attributed to drinking. Of course no statistics are available to indicate the rapes, attempted rapes, robberies and other anti-social acts which can be attributed to alcohol, nor how many unwanted pregnancies or how many unexpected consensual intimacies occur because of the influence of alcohol. Yet very few people today advocate a return to legislation which proved unenforceable. With reading, on the other hand, not only is it impossible to define pornography or enforce laws against it, but its effects can neither be measured nor predicted. Two people may read the same thing and have entirely different reactions. What one period considers shocking will merely amuse the next; likewise, the mere bawdiness of one age will be filth to another. It is thus that the so-called "pornographic" books of a period have often become the classics of the next: witness *Madam Bovary*, *Lady Chatterley's Lover*, and *Ulysses*. On the other hand, the *Decameron*, universally read in Chaucer's day, contains passages that most modern editors prefer to leave in the original Italian.

Censorship must first of all cope with the problem of fighting something which defies definition and varies with every person, every area, and every period; it must also cope with this "something" without any firm basis for prohibition. It can be asked if there is a demonstrable causal relationship between reading and behavior patterns. If it were

possible to prove that antisocial sexual behavior such as rape and sexual assault followed the reading of pornography, then laws might properly attempt to regulate something which, as of now, is still legally undefinable (though those laws might prove as unenforceable as prohibition). If, however, no relationship can be established between "pornography" and antisocial sexual behavior, such legislation is purely an attempt to impose a certain moral view on society.

The effect of words, written or spoken, on behavior is hard to trace. For centuries, churches have taught, led, expounded, and preached to convince their disciples of the creed which they professed. No one can say what effect this teaching had on the mind of the faithful, but one might well question the existence of a causal relationship between the "believer's" behavior and the beliefs or doctrines taught, particularly that of charity. Yet this religious effort to influence behavior has been sustained over centuries. In the case of pornography, no study to date has proved that exposure to pornography has caused antisocial behavior. A most thorough recent study was conducted in 1969 by the department of psychiatry at the University of Chicago's Pritzker School of Medicine.

Questionnaires in the University of Chicago survey went to 7,500 psychiatrists and psychoanalysts (about half of those listed in the directory of the American Psychiatric Association) and to more than 3,000 psychologists whose listing in the directory of the American Psychological Association indicated experience with patients. More than 3,400 professionals in the mental health field responded to the questionnaire.

Since words such as "pornography" and "antisocial sexual behavior" may have different meanings to different people, the questionnaire included definitions of both which were to be used in responding.

Pornography was defined in the words of Supreme Court Justice Potter Stewart in the case of *Ginzberg v. The United States*. That definition indicates in part that pornography includes "photographs, both still and motion picture, with no pretense of artistic value" depicting sexual acts. Comic strips, pamphlets, and booklets "with no pretense of literary value" are also included in the definition.

Antisocial sexual behavior was defined for the questionnaire as "that behavior which violates the rights or invades the privacy of some person or persons and is of an obviously sexual nature." Examples include rape and sexual assault.

Responses to individual questions show:

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—80 percent of the psychiatrists and psychologists had never encountered any cases in which pornography was a causal factor in antisocial sexual behavior.

—7.4 percent did encounter cases in which they were somewhat convinced of a link between pornography and antisocial behavior.

—9.4 percent had cases in which they suspected but were not convinced of a link.

—83.7 percent believed persons exposed to pornography are no more likely to engage in antisocial sexual acts than persons not exposed.

—57.9 percent, however, did not believe exposure to pornography tends to act as a valve for antisocial sexual impulses. However, 38.9 percent believe pornography does help decrease the likelihood of antisocial sexual behavior.

—62 percent did not believe pornography which includes violence is any more likely to lead to antisocial sexual behavior.

—60.4 percent did not think pornography can be therapeutically useful for people experiencing fears of sexual impotency.

—61.4 percent did not think seeing violence on television or in the movies acts as catharsis to reduce the tendency for people to actually act out violent impulses.

—49.4 percent did not believe violence, when publicly depicted in various forms, tends to create a permissive atmosphere within which individuals have a greater likelihood of acting out their own violent impulses.

—76.2 percent did not believe watching violence on television or in the movies tends to excite some people or frequently lead to violent behavior.

—65.5 percent did not feel eliminating censorship would reduce the desire for pornographic materials.

—86.1 percent believed people who vigorously try to suppress pornography are often motivated by unresolved sexual problems in their own characters.

—64.9 percent believed censorship is socially harmful because it contributes to a climate of oppression and inhibition within which creative individuals cannot express themselves adequately.

—55.7 percent believed some form of censorship should be applied to pornography, and depiction of violence (53.7 percent), but not erotically arousing materials exclusive of pornography (90.4 percent).

—69.4 percent believed there is a real danger that censorship will suppress true art along with trash.

—70.6 percent believed the real problem in censorship is in finding

persons qualified to exercise their judgment over the reading and viewing materials of others.⁴

In the face of such negative evidence the only plausible explanation for any attempt to impose restrictions on reading is the desire of the would-be censors to impose their own religious morality upon others. Since moral beliefs are either a part of religious faith, or are, for atheists and agnostics, a form of religion, the attempt to impose one's moral views on others flies directly in the face of the prohibition contained in the First Amendment of the Constitution. Unless a casual relationship can be demonstrated, the continued attempts at censorship are attempts to regulate beliefs, thoughts, and ideas which are highly personal and cannot be regulated by the law.

Speaking through Justice Black, the Supreme Court condemned the imposition of a particular form of prayer.

By the time of the adoption of the Constitution, our history shows that there was a widespread awareness among many Americans of the dangers of a union of Church and State. . . . The First Amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control, support or influence the kinds of prayer the American people can say—that the people's religions must not be subjected to the pressures of government for change each time a new political administration is elected to office. Under that Amendment's prohibition against governmental establishment of religion, as reinforced by the provisions of the Fourteenth Amendment, government in this country, be it state or Federal, is without power to prescribe by law any particular form of prayer which is to be used as an official prayer in carrying on any program of governmentally sponsored religious activity.⁵

In *Torcaso v. Watkins*, the Supreme Court stated: "We repeat and again reaffirm that neither a State nor the Federal Government can constitutionally force a person 'to profess a belief or disbelief in any religion.' Neither can constitutionally pass laws or impose requirements which aid all religions as against non-believers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs."⁶ Certainly imposing a moral viewpoint upon society is more serious than imposing a prayer since it is equivalent to imposing a way of life.

The Supreme Court, in a landmark decision, ruled in 1969 that the possession of obscene material in the privacy of the home is not

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a crime. Speaking for the court, Judge Thurgood Marshall said, "If the First Amendment means anything, it means that a state has no business telling a man, sitting alone in his house, what books he may read or what films he may watch. Our whole constitutional heritage rebels at the thought of giving government the power to control men's minds." The Justice continued: "Georgia asserts the right to protect the individual's mind from the effects of obscenity," but

We are not certain that this argument amounts to anything more than the assertion that the state has the right to control the moral content of the person's thoughts. To some, this may be a noble purpose, but it is wholly inconsistent with the philosophy of the First Amendment. . . . Nor is it relevant that obscenity in general, or the particular films before the Court, are arguably devoid in any ideological content. The line between the transmission of ideas and mere entertainment is much too elusive for this Court to draw, if indeed such a line can be drawn at all. . . . Whatever the power of the state to control public dissemination of ideas inimical to the public morality, it cannot constitutionally premise legislation on the desirability of controlling a person's private thoughts.

Perhaps recognizing this, Georgia asserts that exposure to obscenity may lead to deviant sexual behavior or crimes of sexual violence. There appears to be little empirical basis for that assertion. But more importantly, if the State is only concerned about literature inducing antisocial conduct, we believe that in the context of private consumption of ideas and information we should adhere to the view that "[a]mong free men, the deterrents ordinarily to be applied to prevent crime are education and punishment for violation of the law."⁷

What is the difference between private and public consumption of ideas? The basic principle to remember is that "whatever the power of the state . . . it cannot constitutionally premise legislation on the desirability of controlling a person's thoughts." It should be unequivocally clear that laws in the American system can regulate only external behavior and cannot attempt to dictate belief, ideas, and thoughts. However, intellectual freedom deals directly with thoughts, ideas, and beliefs, and censorship, including laws restricting access to any material, attempts to control thoughts, beliefs, and ideas. Such actions deny man the rights to which he is entitled since he cannot read what is not printed or what is withdrawn from circulation. Censorship therefore affects directly not only constitutional rights, but also civil rights. Furthermore, it uses unconstitutional means when

it stops the circulation of written works. Any deliberate interference with this circulation—by private persons, public officials, or the law itself—is an abridgment of the freedom of the press, an action directly prohibited by the First Amendment. It follows that every man undeniably has the freedom to read, or to reject, whatever he wishes. By the same token he has no right to dictate what others may read. To do so denies them their freedom to read and their right to read, both of which are constitutionally guaranteed.

It is important to recognize that value judgments are highly subjective. When an individual, a group, an official, a legislature or congress attempts to impose its subjective judgment upon the majority, it in fact denies the majority a freedom indispensable for the development and enlargement of their thinking. Thoughts are subject only to voluntary restrictions, such as religion or morality which seek to impose and which the mind can accept or reject. It seems pertinent to ask the intent of placing within one article the prohibition against the establishment of religion, as well as against abridging the freedom of speech, of the press, or the rights of the people to assemble or to petition. Is the juxtaposition accidental or intentional? If one considers the interrelationship of the freedoms guaranteed in this article, particularly those of speech, of the press, and of religion, the reason for the juxtaposition becomes obvious. The right to speak, the right to think, and the prohibition against imposing one's morals upon others, are obviously facets of the larger freedom, intellectual freedom.

All governing bodies of libraries must therefore recognize that every adult has the right to read any printed matter—books, articles, papers, magazines, or pamphlets—and that any attempts to prevent his doing so have been banned by the Supreme Court. Today, as Charles Rembar, a distinguished member of the New York bar and the author of *The End of Obscenity*, points out, "so far as books are concerned, then, the affront to intellectual freedom no longer comes from the law. On the contrary, the primary rule of the law is in defense of intellectual freedom. The affront comes from three sources: from government officials acting against the law, from non-governmental pressure groups, and from ourselves."⁸ The self-censorship, as Rembar points out, does not ultimately come from within the self, but is created in great part by the surrounding culture which includes legal standards. There is, therefore, an interaction between self-censorship and legal censorship: courts are influenced by public opinion and public opinion tends to accept more readily what the courts have labelled

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acceptable. This self-censorship, however, being the most subtle, is the hardest to pinpoint and to oppose. Rembar points out that the library of the Harvard Club does not own any book Norman Mailer, a distinguished Harvard alumnus, wrote between *The Naked and the Dead* and *The Armies of the Night*. Was it literary taste or self-censorship that has kept *The Deer Park* from the shelves of the Harvard Club?

Self-censorship may be too subtle to be effectively coped with, but there is usually nothing subtle in the censorship exercised by government officials. Yet no one has the right to remove a book from the shelves of a library or to order it removed unless the volume has been declared obscene by a court of competent jurisdiction. As a matter of fact, as Rembar points out, when officials

apply the pressure on their own, without recourse to legal process, the law is clear that they are acting unlawfully, and the courts will enjoin them. Then there are cases where enforcement officials employ legal process, but in a way which is itself a form of suppression; here it has been established that people may not be silenced except after a court has considered the matter. . . . in general it can be said that officials who seek to interfere with free expression on their own—that is, prior to a judicial determination that the book should be suppressed—will be stopped by the courts.⁸

The bodies governing libraries must remember that no book is obscene on its face, no book can be prejudged obscene by an individual, and no book can be held obscene until it has been so declared by a court of competent jurisdiction.

A librarian does not have to yield to that kind of pressure, and library governing bodies are there to protect him and back him. Should a librarian be fired for refusing to yield to pressure, the firing may be actionable under the Civil Rights Act which states:

Every person who, under cover of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.⁹

This way of looking at civil rights does bring about a new twist in legal thinking. Carrying it to its logical conclusion means as Rembar

states, "that the selection of books is itself part of the speech and press the First Amendment protects, and that librarians are entitled to personal protection because they have a special function under the First Amendment. But is this not valid? Freedom of expression involves freedom of communication. It is not much good to be free to speak if you cannot make yourself heard. Public libraries are an immensely important link in the chain of communication."¹⁰

It should be pointed out that while those freedoms guaranteed by the Constitution have so far been held to apply to adults, there are the so-called "variable obscenity laws" which apply to juveniles. Stated simply, as quoted as *Ginsberg v. New York* the Supreme Court ruled that a State may regulate the dissemination to juveniles of, and their access to materials objectionable to them, but which a state clearly could not regulate as to adults.¹¹ The effect of the *Ginsberg* case is that a publication which would not be obscene if sold to an adult may yet be obscene—and thus constitutionally unprotected—when sold to a minor. It should be noted that in the *Ginsberg* case the court did not decide whether the material involved was actually obscene for minors under seventeen since that point was not specifically raised. Since the court upheld the New York statute involved in the *Ginsberg* case, many states have adopted *Ginsberg* type laws, and it is quite likely that more states will follow. Generally, these variable obscenity laws prohibit the sale or loan for monetary considerations, to minors of materials defined in various statutes. The age of the minor varies, but generally is seventeen.

It is quite one thing to recognize, for voting purposes, twenty-one years as a requirement. By the same token it is rather easy to set the age of eighteen as the legal age in which one might purchase a drink. It is, however, quite different to set the age at which one may be given reading materials. It is obvious that in many instances young adults are more capable of handling sophisticated material than adults in their thirties, forties, and fifties. Yet the laws do not take different levels of maturity into consideration, which obviously is unjust.

It is apparent that we will live with these "variable obscenity" statutes for some time. So far criminal prosecution of librarians is unlikely because most statutes provide that they would only apply to sales or loans "for monetary consideration." But the governing bodies of libraries, as proper guardians of the constitutional freedoms and as recipients of a public trust, should check these laws and make certain that they except libraries and library personnel. It is hoped

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that the threat to intellectual freedom to others would concern them also and that they would broaden the exceptions as has been done in Minnesota. Ervin Gaines, Director of Libraries of Minneapolis, prepared for the Minnesota Library Association the following exceptions which have been enacted into law:

(a) Recognized and established schools, churches, museums, medical clinics and physicians, hospitals, public libraries, governmental agencies or quasi governmental sponsored organizations, and persons acting in their capacity as employees or agents of such organization. For the purpose of this section "recognized and established" shall mean an organization or agency having a full-time faculty and diversified curriculum in the case of a school; a church affiliated with a national or regional denomination; a licensed physician or psychiatrist or clinic of licensed physicians or psychiatrists; and in all other exempt organizations shall refer only to income tax exempted organizations which are supported by tax funds or supported by at least one-third publicly donated funds.

(b) Individuals in a parental relationship with the minor.¹²

The adoption of such exceptions to the laws is necessary to give librarians the assurance that they are backed by their governing bodies. Library associations should vigorously assist in the passage of such exemptions.

The governing bodies of all libraries must realize that it is not only unreasonable but impossible to expect librarians to act as censors. By now it should be obvious that librarians—or anyone else—should not act as censors to adults, and they cannot fulfill these functions toward minors. Unlike parents who spend a great deal of time with their children, and even teachers who know children well, librarians cannot judge the child's ability in general, his reading ability in particular, nor his level of intelligence, nor can they evaluate the sociological and psychological factors which enter into the child's life. Librarians likewise are not usually familiar with the family background of the child which greatly influences the child's level of understanding and his ability to cope with his reading. Parents are the only persons who should properly say what their children can or cannot read.

The grave difficulty which presents itself here is that in too many instances children are far more advanced than their parents. Particularly in this day of modern education, it is not unusual to see very young children with a great deal more intellectual sophistication than

their parents, especially in rural areas, in the inner core cities, and in economically depressed areas. But this problem, serious as it is, is no reason to shift the responsibility for selecting the reading of young adults to the librarians and expecting them to become censors. Moreover, the number of trained librarians in any given library is quite insufficient to do the counseling which would be necessary if censorship were to work effectively.

The number of professional librarians varies from library to library, but the paucity of professionally trained librarians in any given library should convince any reasonable person, that it is humanly and physically impossible for the professional librarians to counsel personally every child and at the same time perform his multitudinous duties. Indeed, too many of our so-called libraries have no trained personnel at all. It is unthinkable that a totally untrained person should be given such responsibility. A review of the total number of unbudgeted, but needed, librarians should be proof enough, but even if the personnel were available to fill these unbudgeted positions, librarians would still have neither the time nor the training to act as censors.

The variable obscenity laws raise another problem, that of the rights of juveniles. It should be remembered that while the rights of juveniles vary from state to state, their rights to "due process" have been upheld, as were their rights to counsel. Furthermore some of the traditional procedural rights must be followed by juvenile courts if the basic rights of children to fair treatment are to be assured. In 1969 the Supreme Court, speaking through Justice Fortas, in the matter entitled *In Re Gault*, said, "Departures from established principles of due process have frequently resulted not in enlightened procedure, but in arbitrariness. . . . it would be extraordinary if our Constitution did not require the procedural regularity and the exercise of care implied in the phrase 'due process.' Under our Constitution, the condition of being a boy does not justify a kangaroo court."¹³ Further, Justice Fortas said:

A proceeding where the issue is whether the child will be found to be "delinquent" and subjected to the loss of his liberty for years is comparable in seriousness to a felony prosecution. . . . The child "requires the guiding hand of counsel at every step in the proceedings against him." . . . We conclude that the Due Process Clause of the Fourteenth Amendment requires that in respect of proceedings to determine delinquency which may result in commitment to an

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institution in which the juvenile's freedom is curtailed, the child and his parent must be notified of the child's right to be represented by counsel retained by them, or if they are unable to afford counsel, that counsel will be appointed to represent the child.¹³

The court also pointed out: "We conclude that the constitutional privilege against self-incrimination is applicable in the case of juveniles as it is with respect to adults."¹³ Furthermore in February 1969, the Supreme Court in *Tinker v. Des Moines Independent School District et al.*, held that high school and junior high school students had the right to engage in speech, notwithstanding the school authorities' regulations to the contrary, provided that their speech did not amount to a disruption of the educational process. Justice Fortas, speaking for the court, said: "The District Court recognized that the wearing of an armband for the purpose of expressing certain views is the type of symbolic act this is within the Free Speech Clause of the First Amendment. As we shall discuss, the wearing of armbands in the circumstances of this case was entirely divorced from actual or potential disruptive conduct by those participating in it. It was closely akin to 'pure speech' which, we have repeatedly held, is entitled to comprehensive protection under the First Amendment."¹⁴ In view of these decisions and the constant evolution of the law it is to be hoped that the rights of "juveniles" may one day be recognized as entitling them, certainly at a much earlier age than is now specified in most of our variable obscenity laws, to read any material they choose.

The usual fear expressed is that material thought to be "obscene" might fall into the hands of young adults and encourage them to delinquency or sexual experimentation. Yet actual study shows that delinquents typically are non-readers. A 1958 study by Brown University psychologists concluded: "there is no reliable evidence that reading or other fantasy activities leads to antisocial behavior." And Justice William O. Douglas pointed out in *Freedom of the Mind*: "We know from researches in this age-old field that sex literature is not an important factor in arousing youth's sexual desire. Adults are the ones most afflicted, and men more than women. The male who is commonly aroused is an adult in the upper social groups. So the desire to protect either juveniles or society turns out to be a pretense. The real purpose is to make the public live up to the censor's code of morality."¹⁵

It can be also pointed out that millions of devotees of James Bond and Mike Hammer remain law abiding citizens. In fact, it has been

argued that novels of sex and violence provide a vicarious outlet for tensions, infinitely preferable to direct action. As William C. Kvaraceus states: "with the younger readers, it may be more strategic to let them experience an illicit love affair in the fantasy of *Peyton Place* rather than the back seat of a parked car in their home town."¹⁶

One more word should be spoken to reassure those who fear for the young adult or for children. Freedom may be the greatest safety for our young people, for it may be better for young people to be prepared by books to meet the evil they will undoubtedly encounter sooner or later. It may also be better for them to learn about sex in books with a literary value than in back-street under-the-counter pornography. We apparently cannot stop the supply of such contraband material. It will always be available for the curious and for the emotionally disturbed. It is not pornography, we have noted, which causes emotional imbalance, but emotional imbalance which impels a child or an adult to seek pornography.

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Congress as Censor

ELI M. OBOLER

IN MAY 1969, President Richard Nixon sent Congress the first message on obscenity ever directed by a President of the United States to the Congress of the United States. During the first session of the Ninety-first Congress over a hundred bills dealing with the subject of obscenity were introduced in both the House and Senate as part of Congress' continuing effort to keep America pure.

For the first time in our history, the chief executive of our country thought that "new measures . . . to crack down on . . . peddlers of obscenity" were so important that they justified a special message to Congress requesting specific legislation. His message requested these laws: "To make it a Federal crime to use the mails or other facilities of commerce to deliver to anyone under 18 years of age material dealing with a sexual subject in a manner unsuitable for young people, . . . to make it a Federal crime to use the mails, or other facilities of commerce, for the commercial exploitation of a prurient interest in sex through advertising," and "to extend the existing law to enable a citizen to protect his home from any intrusion of sex-oriented advertising regardless of whether or not a citizen has ever received such mailings."¹ He said further, concerning this third proposal, that "this new stronger measure would require mailers and potential mailers to respect the expressed wishes of those citizens who do not wish to have sex-oriented advertising sent into their homes. These citizens will put smut-mailers on notice simply by filing their directions with the designated postal authorities. To deliberately send such advertising to their homes could be an offense subject to both civil and criminal penalties."¹

In this instance the President of the United States was definitely not attempting to lead congressional opinion or voiced desire. He was, rather, following it. As an indication of just how significant such items

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seem to be to Congress, it might well be noted that on November 10, 1969, Senator Mike Mansfield, (D. Mont.) majority leader, referred to three of the most pressing matters facing this country. These three were respectively drugs, crime, and obscenity. Through the years other congressmen have also indicated that to them the matter of dealing with so-called obscene literature is of prime importance—certainly more important in many respects than dealing with such comparatively minor matters as poverty, racism, and even misplaced national priorities.

For over half a century after the country began, there was no law put on the books of the federal government by Congress concerning censorship. In 1842, a law was passed stating that "the importation of all indecent and obscene prints, paintings, lithographs, engravings, and transparencies is hereby prohibited." It is clear that the law in no way concerned books, unless those books were collections of "indecent and obscene prints, paintings"² and so on.

But in 1873, under the influence of Anthony Comstock and the then-prestigious and powerful New York Society for the Suppression of Vice, Congress passed its first omnibus anti-obscenity law. This law included sections barring importation of obscene material from abroad, outlawing distribution of obscene materials in federal territories, and making it a felony to send or receive such materials through the mails. Actually, a postal statute on obscenity, which was intended to keep lewd materials from the hands of soldiers in the field, was enacted in 1865. The so-called "Comstock Act," as it has come to be known, is still a part of the law as it stands in the United States Code, but the effect of this has been greatly diminished by various court decisions.

Throughout the latter part of the nineteenth century and the early years of the twentieth century, Congress found little occasion to do more than touch up various sections of the Comstock Act and the postal statutes, as was felt to be necessary. But there was no real hassle in Congress about obscenity and pornography until the famous Smoot-Cutting set-to which took place in 1929. This was memorialized for all time, by Ogden Nash's poem about "Senator Smoot of Ut," with its rousing refrain of "Smoot fights smut." In more prosaic fashion, what actually happened was that Senator Reed Smoot (R., Utah) and Senator Bronson Cutting (D., New Mex.) had a prolonged debate in the Senate on the subject of a proposed section of the Smoot-Hawley tariff bill of 1929.

According to the original bill, section 305 stated the following:

Immoral articles—importation prohibited: (a) prohibition of importation: All persons are prohibited from importing into the United States from any foreign country any book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article of an immoral nature, or any drug or medicine, or any article whatever for the prevention of conception or causing unlawful abortion, or any lottery ticket, or any printed paper that may be used as lottery tickets, or any advertisement of any lottery. No such articles, whether imported separately or contained in packages with other goods, should be admitted to entry; and all such articles, unless it appears to the satisfaction of the collector that the obscene articles contained in the package were inclosed without the knowledge or consent of the importer, owner, agent, or consignee, the entire contents of the package in which such articles are contained, shall be subject to seizure, forfeiture under the customs law.³

The fine imposed upon any government officer who helped such items to be smuggled in was not more than \$5,000 or imprisonment at hard labor for not more than ten years or both. Senator Cutting pointed out that such a sweeping disposal was something new in American legislation, and deserved more than a cursory study and approval by the Senate.

Cutting made a number of memorable statements during the debate, but perhaps the most important for indicating at least one trend in Congressional thinking was his defense of the rights of books, as well as men, to have a hearing before decisions were made. He strongly criticized the idea that the average customs clerk could decide whether or not a book was obscene, because, he stated, "a clerk, in order to make a correct decision, must necessarily read the book as a whole. Many books of highly moral tendency would be excluded if a man's attention were confined to one page, one paragraph, or one sentence, or one word." He said "there are two entirely incongruous ideas of what constitutes obscenity. One is the idea that something is obscene which has the capacity to shock the sensitive mind; that is interpretation that is carried out in these decisions about words, phrases and sentences. The other idea of obscenity is that it is something which has general tendency to corrupt public morals."⁴

He went on, "The more a book tends to shock an individual, the less apt it is to do him any damage. If it shocks him enough, he will

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throw it in the fire or the waste basket, and it will not damage his morals at all. The books which are apt to do a man harm are books which do not shock him, but which in various insidious ways may tempt him on to read a little further from page to page, and in the long run may undermine the whole moral fiber of his being." He stressed that "the fundamental trouble in this whole thing is that we cannot say what is decent and what is indecent. No human being is infallable in those respects. Every generation and every century changes its standards of decency, and even of morality."⁴

It was at this point that Smoot got into his long debate with the Senator from New Mexico. Senator Smoot said, "I hope that the Congress of the United States will not serve notice to the world the bars are down, so far as our customs laws are concerned, to all the obscene, indecent, and salacious matter that may be published abroad. I know it is said that much of the so-called obscene matter is literature, classical literature, and that foreign classics die along with the matter immoral in purpose, use, and tendency. Well, Mr. President, let the dead bury the dead. It would be better, to my mind, that a few classics suffer the application of the expurgating shears than that this country be flooded with the books, pamphlets, pictures, and other articles that are wholly indecent both in purpose and tendency, and that we know all too well would follow the repeal of this provision." *⁴

Senator Cutting's reply to this was "the only policy we can accept in this matter is the belief that the American people in the long run can be trusted to take care of their own moral and spiritual welfare; that no bureaucratic guardian has competence to decide for them what they shall or shall not read." He added, "I admit there be those among us who occasionally abuse those privileges; but I insist that the same men who would abuse those privileges would abuse the privileges of franchise. If a man is not capable of deciding what he may or may not read without injury to himself, then that man is not fit to be entrusted with the right to select his own representatives in the government."⁴

Among the others who got into the discussion were such people as Senators Norris, Borah, Black, Robert M. LaFollette, Jr., Tydings,

* Ezra Pound, in a brief article entitled "Honor and the United States Senate," *Poetry*, June 1930, pp. 150-52, commented: "Smoot is a gratuitous insult offered by the state of Utah to any school-child in the country." He added, "We pay heavily for official lowbrows." And finally, "no one has made a clear case *against* having high officials possessed of some sense of history and literature."

Wheeler, and other well-known liberals of the time on one side, and Heflin and other conservatives on the other.** When the Cutting amendment came to a vote, it was defeated. But finally Cutting did get through a revised amendment to the section (which omitted any reference to "books" or "literature") by the narrow vote of 38 to 36.

Then, for a number of years there was very little, if any, censorship activity on the part of Congress. In 1944 Congressman Samuel Dickstein (D., N.Y.) recommended "that in addition to the matter described as non-mailable pursuant to Section 211 of the Criminal Code as amended (USC, Title 18, Section 33404), all papers, pamphlets, magazines, periodicals, books, pictures, and writings of any kind, and every article and thing designed or intended to cause racial or religious hatred or bigotry or intolerance, or to, directly or indirectly, incite to racial or religious hatred or bigotry or intolerance are hereby declared non-mailable matter."⁵ Most surprisingly to Congressman Dickstein, the National Association for the Advancement of Colored People, the American Civil Liberties Union, and many representatives of religious groups indicated their opposition to such a measure. Ultimately, it failed to pass.

In 1952, came the first all-out Congressional attack on obscenity in this century, under the auspices of Representative Ezekiel C. Gathings (D. Ark.), Chairman of the House of Representatives Special Committee on Current Pornographic Materials. The committee, after lengthy hearings (with most witnesses from the censor ranks) recommended legislation to widen postal censorship powers, tighten loopholes in the law against interstate shipment of obscene materials, and to favor what might be called "censorship by police pressure." A minority report of this committee warned against censorship of ideas and defended the paperback book industry's general performance. (This industry had been the principal target of the Gathings committee).

During the debate in Congress on the resolution to establish the Gathings committee, Representative Chet Holifield (D., Cal.) stated that "there will develop among the members of this special committee a great obligation to keep in mind the constitutional safeguards on individuals, and, while being in opposition on some of the material that they will have to permit to be printed under the existing laws on free speech, I am predicting they will have a hard time writing legislation which will protect the people from literature which they

** Ezra Pound, *op. cit.*, "Cutting has put New Mexico on the map."

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may think undesirable but which, if attempts are made to legislate against, they may find that it will have an overlapping effect upon the privileges of free speech and free press.”⁶ During the same debate Representative Eugene McCarthy (D., Minn.) warned that “when Government goes to extremes the effect is to violate fundamentally the right of the individual person to think for himself and to choose for himself.”⁷

One of the most extraordinary bills ever to come out of Congress was presented by Representative Harold Velde (R., Ill.) in 1952, when he offered “a bill to provide that the Librarian of Congress shall mark all subversive matter in the Library of Congress and compile a list thereof for the guidance of other libraries in the United States.” Fortunately, this bill was referred to the House Committee Administration and never reported out. Representative Velde was a former F.B.I. agent and a member of both the House Committee on Un-American Activities and the House Education and Labor Committee. A few days after Velde’s bill, Representative Ernest K. Bramblett (R., Cal.) introduced “a bill to prohibit the transmittal of Communistic propaganda matter in the United States mails or in interstate commerce for circulation or use in public schools.” This bill also died in committee.

In 1953, Senator Joseph McCarthy (R., Wisc.) held hearings on the Senate Subcommittee to investigate the U.S. Information Agency’s Service Libraries in foreign countries. Combining hearings with a sending out of emissaries for on-the-spot investigations, his committee’s activities resulted in the barring—at least temporarily, and in some cases permanently—of many books, the actual burning of a few books in one library, and, in general, great damage to the prestige of the United States as an advocate of freedom throughout the world.

The year 1954 was highlighted by another attack on the USIA libraries, this time by a House subcommittee on appropriations, headed by Representative John J. Rooney. They “thought pictures of a little red schoolhouse, an elderly teacher, a dust storm, and a pair of jitterbugs might give comfort to the Kremlin,” so Congress, in appropriating funds for the USIA that year barred the use of any part of such funds to purchase copies of Emily Davie’s *Profile of America*.

In 1955, Congress passed a law prohibiting interstate transportation of “obscene” matter by common carrier. Senator Estes Kefauver (D., Ark.) held three days of hearings on the relationship between juvenile delinquency and so-called “objectionable literature.” The senator called

for stiffer anti-obscenity laws—which were not immediately forthcoming.

The next year Congress passed a law which permitted the Post Office to impound mail suspected of promoting fraud, obscenity, and gambling—but excepted from this stricture were books and publications with second-class mail privileges. In 1959, the House passed a bill submitted by Representative Kathryn E. Granahan (D., Pa.) allowing the Postmaster General to issue an impounding order effective up to forty-five days (an extension of the existing legal twenty-day limit). In 1960 Representative Granahan toured the United States to investigate the distribution of pornography. She stated that there was definitely a causative connection between such material and juvenile delinquency, and told the press that “distribution of smut was part of the Communist conspiracy.” When she came back to Washington she introduced a bill to broaden the Postmaster General’s powers to impound mail, and the bill was finally passed by Congress in a rewritten form assigning impounding power and time limits to the jurisdiction of the U.S. district courts.

In the same year constitutional amendments to give the states jurisdiction over “questions of decency and morality” and to move so-called “hard-core” pornography from First Amendment protection were introduced, but died. A group of twenty-five U.S. senators called for a national conference, which was never held, to consider what to do about fighting the traffic in obscene matter and materials in this country.

In 1958, Congress passed a “venue” law which extended the jurisdiction for prosecution of all allegedly obscene material from the point of mailing, where prosecution had formerly been limited to any place which was passed by the challenged matter on its way through the mails. Thus, for example, a publisher might be prosecuted in a place which was deliberately selected because its community standards and mores were much narrower and more rigid than, say, those of Los Angeles or New York. Another reason for selecting a different place might be because it lacked one or more local attorneys familiar with the laws of censorship. This law also provided much stiffer penalties for second offenders convicted of mailing obscene matter, provided for a greater latitude in the varieties of obscene matter the post office could seize, and made it a violation to send matter adjudged to be obscene to anyone under nineteen years of age.

In 1961, the Senate voted to create a commission on “noxious” and

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obscene matters and materials. This bill was introduced by Senator Karl Mundt (R., S. Dak.), but did not have any effect at the time, because the House let the bill die. In 1962, Representative Glenn Cunningham (R., Neb.), the one-time great miler from the University of Kansas, managed to convince Congress to pass the Cunningham amendment to the general postal law, whereby for the first time a mail-screening provision was placed on federal statute books. This dealt with so-called "Communist propaganda." This year, Congress did pass a wide-sweeping censorship bill for the District of Columbia, but the bill was vetoed by President Kennedy. Several years later, in 1964, the House passed a bill giving every postal patron the right to complain to the postmaster about any material received through the mails which he considered "morally offensive." According to this law the postmaster, after receiving notice from the postal patron, would be empowered to stop the mailer from sending any further such material to the complainant through the U.S. mails. This law was approved by the Senate and signed by the President in 1968.

Previous to this, the bill which had gotten through the Senate in 1961, concerning a national commission on obscenity was finally passed by both houses and signed by the President in 1967. This bill created a National Commission on Obscenity and Pornography, which was to report to the President and Congress no later than January 31, 1970. This commission was assigned four specific duties:

1) with the aid of leading Constitutional law authorities, to analyze the laws pertaining to the control of obscenity and pornography and to evaluate and recommend definitions of obscenity and pornography; 2) to ascertain the methods employed in the distribution of obscene and pornographic materials and to explore the nature and volume of traffic in such materials; 3) to study the effect of obscenity and pornography upon the public, and particularly minors, and its relationship to crime and other antisocial behavior; and 4) to recommend such legislative, administrative, or other advisable and appropriate action as the commission deems necessary to regulate effectively the flow of such traffic, without in any way interfering with constitutional rights.⁸

The commission included, as the law stated, "persons having expert knowledge in the fields of obscenity and anti-social behavior, including but not limited to psychiatrists, sociologists, psychologists, criminologists, jurists, lawyers, and others who have special competence with respect to obscenity laws and their application to juveniles."⁸

There was even one librarian among the membership, Frederick H. Wagman, former president of the American Library Association and the director of the University of Michigan Library. Its chairman was William B. Lockhart, dean of the University of Minnesota School of Law and a recognized authority in the field of obscenity and its legal implications and handling.

The Ninety-first Congress, as mentioned earlier, saw many new anti-obscenity bills. When the first session ended in December, 1969, no bills had passed, but several sets of hearings had been held by both the Senate and the House. The late Everett Dirksen had proposed a bill designed to protect children from receiving pornography through the mails. It was intended to place federal enforcement powers regarding obscenity in the Justice Department. Senator Dirksen's bill, which Senator Barry Goldwater later took over, was intended to deny federal courts, including the Supreme Court, jurisdiction over lower court rulings on obscenity cases.

In 1969, Senator Goldwater came forth as more or less the leader of those who were trying to strengthen the laws against pornography. A statement which he issued on December 17, 1969, said that "common sense will tell most people that the exposure of young children to material promoting sexual promiscuity or abnormal behavior might undermine their normal development." He admitted that "not much research exists to show what effect pornography has on the social life of the individual," but he stressed what he called "the wealth of expert testimony that is available from psychiatrists, law enforcement officers, and other professionals who have had contact with consumers of obscenity."⁹ He agreed that there is no scientific proof one way or the other, but he said that Congress has two bases on which to act on legislation for the protection of children. He put it this way: "Whether or not we conclude that pornography is harmful to children, there is a second concept which I believe has a strong basis for enacting a special law with respect to minors. This is the power of Congress to protect the Constitutional guarantee of freedom of privacy." He said, "There is no question that indiscriminate distribution of smut to minors is undermining the ability of parents to try to educate their children in a decent way as to the purpose and meaning of sex."⁹

Clearly, laws based on this kind of thinking could well affect book selection and the operation of libraries, and could ultimately lead to prior restraint of a nature never conceived of before in this country as

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a responsibility of Congress. In sum, the threat of censorship from Congress is perennial, and seemingly will continue to be so. Though laws are not actually always passed, at the very least sensational hearings are held which get national publicity, and are often reflected in state and local laws and more rigid administration of laws already on the books.

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Censorship: The Law and the Courts

STANLEY FLEISHMAN

THE MODERN LAW of obscenity drew its first legal breath in 1949—twenty-one years ago. In that year Judge Curtis Bok decided *Commonwealth v. Gordon, et al.*,¹ which held that a number of “sexy” books² were entitled to protection under the free speech and press provisions of the First and Fourteenth Amendments to the United States Constitution. After holding that a book dealing with sex cannot be condemned as obscene unless it presented a clear and present danger of serious social harm, Judge Bok went on to note that a book, however sexually impure and pornographic “cannot be a present danger unless its reader closes it, lays it aside, and transmutes its erotic allurements into overt action.”¹ He also expressed doubt that anti-social action follows the reading of an obscene book.

Earlier cases such as *United States v. One Book Called “Ulysses”*³ were decided without reference to the constitutional guarantees secured by the First Amendment.

Seven years later in *United States v. Roth* (1956) the late Judge Jerome Frank expanded Judge Bok’s First Amendment argument.⁴ In doing so he paid his respects to Judge Bok, stating that before reading Judge Bok’s opinion he “had little doubt about the validity of a purely punitive obscenity statute. But the next year . . . Judge Curtis Bok, one of America’s most reflective judges, directly attacked the validity of any such punitive legislation. His brilliant opinion, which states arguments that (so far as I know) have never been answered, nudged me into the skeptical views contained in this opinion.”⁵

Judge Frank invited the Supreme Court to re-examine the whole obscenity question in light of the expanding freedom afforded speech in other areas. “I think it is not improper to set forth,” he said, “considerations concerning the obscenity statute’s validity with which, up

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to now, I think the Supreme Court has not dealt in any of its opinions. I do not suggest the inevitability of the conclusion that the obscenity statute is unconstitutional. I do suggest that it is hard to avoid that conclusion, if one applies to that legislation the reasoning the Supreme Court has applied to other sources of legislation. Perhaps I have overlooked conceivable compelling contrary arguments. If so, maybe my opinion will evoke them.”⁵

In 1957, the Supreme Court accepted Judge Frank’s invitation. The result was the now famous *Roth-Alberts* opinion.⁶ Unfortunately, the Supreme Court failed to answer the basic question raised by Judge Frank. Instead, the Court lightly brushed aside his suggestion that the obscenity laws invaded the free speech provision of the Constitution, saying merely that “obscenity” was not within the area of constitutionally protected speech because it was utterly without redeeming social importance.

In the thirteen years since *Roth* was decided, the Supreme Court has written hundreds of thousands of words attempting to draw the line separating constitutionally protected speech from criminally obscene speech. Before a work can be condemned under the *Roth* standards it must (1) go substantially beyond customary limits of candor in the description or representation of matters pertaining to sex, nudity or excretion, and (2) appeal to the prurient interests of the average person, and (3) be utterly without redeeming social importance.

The vagueness of the standards and the difficulty of applying them to particular material were revealed by Justice Stewart, who said in *Jacobellis v. Ohio*:

It is possible to read the Court’s opinion in *Roth v. United States* in a variety of ways. In saying this, I imply no criticism of the Court, which in those cases was faced with the task of trying to define what may be indefinable. I have reached the conclusion . . . that under the First Amendment criminal laws in this area are constitutionally limited to hard-core pornography. I shall not today attempt further to define the kinds of material I understand to be embraced within that shorthand description; and perhaps I could never succeed in intelligibly doing so. But I know it when I see it, and the material involved in this case is not that.⁷

In 1967, in the *Redrup-Austin* cases, the Supreme Court shifted its focus. In holding that the lower court finding of obscenity could not stand under any constitutional test of obscenity, the Court added the following significant statement:

In none of the cases was there a claim that the statute in question reflected a specific and limited state concern for juveniles. In none was there any suggestion of an assault upon individual privacy by publication in a manner so obtrusive as to make it impossible for an unwilling individual to avoid exposure to it. And in none was there evidence of the sort of "pandering" which the Court found significant in *Ginzburg v. United States*.^{8*}

The *Redrup* case pointed in the direction of freedom for adults to receive or purchase discreetly any material dealing with sex or nudity that appealed to them. While some lower courts followed this direction,⁹ the majority failed to do so.¹⁰

By 1968, Judge Harlan, in *Ginsberg v. New York*, acknowledged that the obscenity law was a constitutional disaster area, observing that it "has produced a variety of views among the members of the Court unmatched in any other course of constitutional adjudication."¹¹ Members of the Court, he said, disagreed among themselves on virtually every aspect of the law. "The upshot of all this divergence in viewpoint is that anyone who undertakes to examine the Court's decisions since *Roth* which have held particular material obscene or not obscene would find himself in utter bewilderment. From the standpoint of the Court itself the current approach has required us to spend an inordinate amount of time in the absurd business of perusing and viewing the miserable stuff that pours into the Court."¹¹

It was against this background that the Supreme Court decided *Stanley v. Georgia*¹² in April of 1969, and withdrew from its earlier holding that obscenity was not protected by the First Amendment. The Court there appeared to embrace much, if not all, of the underlying philosophy of Judges Bok and Frank.

In *Stanley v. Georgia* police officers found some reels of obscene films while executing a search warrant in the home of Robert Stanley. The films were seized and Stanley was prosecuted and found guilty

* In *Ginzburg v. United States*, 383 U.S. 463 (1966), Justice Stewart tried his hand at defining hard core pornography. He said:

Such materials include photographs, both still and motion picture, with no pretense of artistic value, graphically depicting acts of sexual intercourse, including various acts of sodomy and sadism, and sometimes involving several participants in scenes of orgy-like character. They also include strips of drawings in comic-book format grossly depicting similar activities in an exaggerated fashion. There are, in addition, pamphlets and booklets, sometimes with photographic illustrations, verbally describing such activities in a bizarre manner with no attempt whatsoever to afford portrayals of character or situation and with no pretense to literary value. All of this material . . . cannot conceivably be characterized as embodying communication of ideas or artistic values inviolate under the First Amendment.

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of possessing obscene matter. The Supreme Court reversed, holding that private possession of such matter cannot constitutionally be made a crime in light of the free speech and press provisions of the Constitution. The Georgia authorities argued that since "obscenity" was not within the area of constitutionally protected speech, it followed that Georgia was free to deal with the possession of such material in the same manner as it dealt with other contraband found in the possession of its citizens. Georgia argued that no constitutional provision was violated by a state criminal law which made the possession of "obscene" matter a crime. Justice Marshall, writing for the Court, disagreed, stating that the mere private possession of obscene material is protected by the First Amendment, supplemented by a right of privacy. A fundamental purpose of the free speech provisions, he stated, is the guarantee of "the right to receive information and ideas, regardless of their social worth." This right to receive, he continued, "takes on an added dimension" when joined with the "right to be free . . . from unwarranted governmental intrusion into one's privacy."

In the *Stanley* case, the Supreme Court finally got around to examining the purpose behind obscenity legislation, as Judge Frank had urged them to do some thirteen years earlier. Thus, when Georgia argued that obscenity legislation is necessary to protect the moral health of the community and to prevent harmful conduct that may be incited by contact with obscenity, the Court rejected the arguments.

As to protecting the "moral health" of the community the Court said:

Georgia asserts the right to protect the individual's mind from the effects of obscenity. We are not certain that this argument amounts to anything more than the assertion that the State has the right to control the moral content of a person's thoughts. To some, this may be a noble purpose, but it is wholly inconsistent with the philosophy of the First Amendment. . . . Nor is it relevant that obscenity in general, or the particular films before the Court, are arguably devoid of any ideological content. The line between the transmission of ideas and mere entertainment is much too elusive for this Court to draw, if indeed such a line can be drawn at all.¹²

Rejecting the "incitement" to anti-social behavior argument the Court stated:

Georgia asserts that exposure to obscenity may lead to deviant sexual behavior or crimes of sexual violence. There appears to be

little empirical basis for that assertion. But more importantly, if the State is only concerned about literature inducing anti-social conduct, we believe that in the context of private consumption of ideas and information we should adhere to the view that "(a)mong free men, the deterrents ordinarily to be applied to prevent crime are education and punishment for violations of the law."¹²

The *Stanley* case appears to hold that obscenity laws remain viable only with respect to public distribution of obscene materials where the State can establish justification for intervention, as in the case of dissemination to minors or unwarranted intrusion on the privacy or sensibilities of the public.

Recognition of the significant impact of the *Stanley v. Georgia* decision has already come from lower courts. In *Stein v. Bachelor*, a federal court declared the Texas obscenity statute unconstitutional, giving a generous reading to the *Stanley* case. Aware that in a narrow sense the *Stanley* case merely held that the free speech provisions of the Constitution prohibit making private possession of obscene material a crime, the court found it impossible "to ignore the broader implication of the opinion which appears to reject or significantly modify the proposition stated in *Roth v. United States*, that obscenity is not within the area of constitutionally protected speech or press."¹³ The *Stein* court interpreted *Stanley* as modifying "the dichotomy between protected and unprotected expression by recognizing that at least in some contexts obscenity is afforded First Amendment protection and thus cannot constitutionally be regulated in the absence of a legitimate societal interest."¹³

In *United States v. Thirty-Seven (37) Photographs*, another federal court declared the hundred year-old customs law unconstitutional. In that case a citizen returning from Europe had thirty-seven allegedly obscene photographs seized from his luggage by a customs inspector.

In the lawsuit that followed, the court, without deciding how far *Stanley* goes, invalidated the customs law because it prohibited an adult from importing an obscene work for private use. The court then went on to say that "the First Amendment cannot be construed to permit those who have funds for foreign travel to bring back constitutionally protected literature while prohibiting its access by the less affluent."¹⁴

Finally in *Karalexis v. Byrne*, a third federal court took *Stanley* to its logical conclusion. The court there held the Massachusetts obscenity statute unconstitutional because it was not limited to protect-

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ing youth or the privacy of the general public. After reviewing the Stanley case the court said in *Karalex v. Byrne*: "The question is, how far does *Stanley* go. Is the decision to be limited to the precise problem of 'a mere private possession of obscene material'; is it the high water mark of a past flood, or is it the precursor of a new one."¹⁵ Believing that *Stanley* is the beginning of a new era, the court held that to justify any obscenity law the proponents of the law must prove affirmatively that obscenity raises a "clear and present danger of anti-social conduct or will probably induce its recipients to such conduct." The *Karalex* court then went on to say that the *Stanley* court had concluded that obscenity presented no such danger to the adult viewer or to the public as a result of the adults' exposure.

In recognition of the expanded meaning, the *Karalex* court gave the *Stanley* opinion, the court delayed giving effect to its judgment to permit the Supreme Court to review the case if it chose to do so. The Supreme Court accepted the invitation and stayed the order of the lower court.


It now appears that the three cases which have given *Stanley v. Georgia* a broad reading will be reviewed by the United States Supreme Court. No one but a clairvoyant or a fool would confidently predict the outcome of these cases in a court which has a new Chief Justice and is rapidly changing its character. Indeed, as I am writing this article, the *Wall Street Journal* announces that "the Supreme Court is about to wrestle once more with obscenity." Observing that Chief Justice Burger has already "made clear his position advocating stricter local controls over fleshy movies and sexy printed materials"¹⁶ and that President Nixon shares these views, the *Wall Street Journal* predicted a conservative turn.

For the moment one can say no more than the *Karalex* court said:

We confess that no oracle speaks to *Karalex* unambiguously. Nonetheless, we think it probable that *Roth* remains intact only with respect to public distribution in the full sense, and that restricted distribution, adequately controlled, is no longer to be condemned. It is difficult to think that if *Stanley* has a constitutional right to view obscene films, the Court would intend its exercise to be only at the expense of a criminal act on behalf of the only logical source, the professional supplier. A constitutional right to receive a communication would seem meaningless if there were no coextensive right to make it. If a rich *Stanley* can view a film, or read a book, in his home, a poorer *Stanley* should be free to visit a protected theatre or library. We see no reason for saying he must go alone.¹⁷

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3. United States v. One Book Called "Ulysses", 5 F.Supp.182 (1933), affirmed 72 F.2d 705 (1934).
4. Supreme Court Justice Douglas, in a Forward to *The Selected Writings of Judge Jerome Frank; A Man's Reach*, edited by Barbara Frank Kristein (1965), said of Judge Frank's opinion: "One can search the reports and not find a more interesting and profound canvass of an important legal problem than this one on obscenity. It will, I think, remain a classic. Legal precedents, sociology, juvenile delinquency, history, arts and literature, the First Amendment, the Great Books—all are discussed in a fascinating analysis of an ancient and perplexing problem."
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The Reading of Young People

JOHN J. FARLEY

THE COMPLEXITY of the concept of intellectual freedom is most evident when one considers its application to young people—those to whom the society has not yet accorded the privileges of full membership or its concomitant responsibilities. This article will be concerned principally with this complexity and with the inherent paradoxes of the ideal of freedom of the intellect for young people of high school age, roughly the ages thirteen to eighteen, the “young adults.” Crucial problems of freedom relative to the reading of younger children of elementary school age do occasionally arise, but it is concerning the high school-aged youngster, the reader who is neither clearly child nor clearly adult, that questions of freedom of access to print and other media, as well as freedom of speech and expression, that problems become most perplexing. The intention here will be to state and examine some of these perplexities and to consider the current status of the intellectual freedom of young people.

It may help in clarifying this aspect of intellectual freedom, of freedom of speech and of the press, to consider first the rational basis for the general concept, its fundamental assumptions, and the reasons why it is of such great consequence. This is Carl Becker’s summary:

The democratic doctrine of freedom of speech and of the press, whether we regard it as a natural and inalienable right or not, rests upon certain assumptions. One of these is that men desire to know the truth and will be disposed to be guided by it. Another is that the sole method of arriving at the truth in the long run is by the free competition of opinion in the open market. Another is that, since men will inevitably differ in their opinions, each man must be permitted to urge, freely and even strenuously, his own opinion, provided he accords to others the same right. And the final assumption is that from this mutual toleration and comparison of diverse opin-

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ions the one that seems the most rational will emerge and be generally accepted.¹

Walter Lippmann states:

Freedom of speech has become a central concern of the Western society because of the discovery among the Greeks that dialectic, as demonstrated in the Socratic dialogues, is a principal method of attaining truth, and particularly a method of attaining moral and political truth. "The ability to raise searching difficulties on both sides of a subject will," said Aristotle, "make us detect more easily the truth and error about the several points that arise." The right to speak freely is one of the necessary means to the attainment of the truth. That, and not the subjective pleasure of utterance, is why freedom is a necessity in the good society.²

The basis, then, for the democratic ideal of freedom of expression and, by extension, freedom of access to all ideas and opinions is that such freedom is a first condition of man's hopefully unending search for truth. This is the rational underpinning of the concept of intellectual freedom.

While the contingencies of social living necessarily impose limitations upon freedom of speech and of the press, each limitation imposed must justify itself. There must be very compelling and broadly accepted reasons why anyone is prohibited by anyone else from expressing himself in speech or writing or otherwise, or from having full access to information, ideas, opinions or artistic expression.

To what extent does this central ideal of the democratic society apply to those who have not yet reached maturity or the age-status of full citizenship? Specifically, for purposes of the present discussion, to what extent does the society consider the adolescent entitled to freedom of the intellect?

First, an assumption seems to be made almost universally by the adult society that certain types of reading can have undesirable effects upon mind and character, and therefore necessarily upon conduct. Therefore, the argument follows that it is the duty of society to place restrictions upon the availability of such reading matter. While these restrictions might be very minimal in the case of the reading done by adults, they must be broader for young people, who are presumptively less mature, more impressionable, and in greater danger of corruption or subversion. This exception to the ideal of the free marketplace of ideas is apparently as ancient as the ideal itself. It is found

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in Plato; and even John Stuart Mill, in the classic modern statement on freedom, believes it "hardly necessary to say that this doctrine is meant to apply only to human beings in the maturity of their faculties" and not to those "below the age which the law may fix as that of manhood or womanhood."³

That reading can cause improper or immoral conduct has never been scientifically proven, and probably never will be. Nevertheless, that some kinds of reading can result in undesirable behavior is accepted as truth by practically everyone (our laws prohibiting the distribution of hard-core pornography can have no other basis), and most especially it is accepted that some kinds of reading can have undesirable effects upon the character and conduct of young people. Harold Gardiner states, "The 'experts' who maintain that books do little harm to children, or that definite harm cannot be proved, do not echo the thoughts of the American citizenry."⁴ Norman St. John-Stevass states as a commonly accepted assumption that "even if there are legitimate doubts about the effect of reading upon adults there can be no doubt that reading does have a positive effect upon youth and especially children."⁵

Even Dr. Benjamin Spock, whose name has become associated with permissiveness, while believing that some types of reading matter treating sexuality and immortality can be "without harm to adults over 18," says of books and other media that depict sexual intimacies, especially those of a loveless, perverse or brutal kind, that

such works are unhealthy for society because they assault the carefully constructed inhibitions and sublimations of sexuality and violence that are normal for all human beings (except those raised without any morals at all) and that are essential to the foundations of civilization.⁶

The library profession itself, which owes its existence in a sense to the (unproven) premise that books can have beneficial effects upon behavior, tacitly accepts the complementary premise that some books can have adverse effects upon the behavior of some people—and that those most likely to be affected adversely are the young and the immature.

Given the tension that results from American society's lip-service to the ideal of the totally free marketplace of ideas as opposed to the practical reality that intellectual freedom never seems to have been generally accepted in the United States (even in the Supreme

Court) as an absolute, principally because of a widespread conviction that some types of expression can have harmful effects, it is not surprising that librarians face frequent censorship dilemmas. When one adds the factor of the widely accepted notion that young people are the ones most likely to exhibit these harmful effects, it is also not surprising that librarians who serve young people are the librarians who face the most frequent and the most complex dilemmas. And, despite the nervousness of the adult society, it is the young people of high school age who are most curious about precisely those things which their elders choose to classify as forbidden; thus it is frequently the librarian who deals with adolescents who finds the clash between the ideal of intellectual freedom and its practical realities most traumatic.

During the past three decades, simultaneously with the growth and expansion of library service to adolescents in public and high school libraries, and simultaneously with an increasing frankness and freedom in printed expression, reports of censorship attempts affecting adolescents have been cited in the news media with a generally accelerating regularity. An examination of the library literature from the late forties through the mid-sixties provides a dreary and repetitious catalog of books which were evidently considered dangerous in some way, but which, in view of the events of the few intervening years, seem strangely non-controversial: *The Scarlet Letter*, *Huckleberry Finn*, *The Grapes of Wrath*, *Brave New World*, 1984, and *The Catcher in the Rye* appear with regularity among the supposedly lubricious novels. The textbooks of Rugg, Muzzey and Magruder, together with almost any book containing an optimistic view of the United Nations, also find themselves accused of subversion, with the American Legion, the Daughters of the American Revolution and various other patriotic groups hovering in the background. Public attacks on schools and schoolbooks as being part of some vague conspiracy became something of a theme of the fifties, typified by E. Merrill Root's *Brainwashing in the High Schools*.

The attempts to censor young people's reading seem principally to have centered upon the subjects of sex and politics. Most novels that have been the centers of censorship in schools and in libraries serving adolescents have included some sexual episode or some supposedly obscene words. Books in the broad area of politics that have been the object of censorship attempts have typically been those accused of preaching some "foreign ideology," most often Communism, or of

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being insufficiently critical of Communism, too critical of capitalism, or of suggesting some vaguely dangerous social experiment, such as equality of the races.

The complexity of the censorship question in schools is indicated by the apparent incompatibility of two ideas: 1) adolescents must gradually be led to the appreciation of mature, adult literature, and to the development of their critical faculties by exposure to controversy and 2) the school's curriculum and the reading provided under the school's auspices must reflect in some way the values of the adult society. Thus Carl Becker says: "The function of high schools is to teach immature young minds what is known rather than to undertake the critical examination of the foundations of what is accepted in the hope of learning something new"⁷—a kind of denial of the free marketplace of ideas for adolescents. Yet, if one is to insist upon the completely free marketplace of ideas in a school library, one would have to insist upon the right of the librarians and teachers to acquire and distribute materials which take positions diametrically opposed to the values which the school is attempting to inculcate—a book, for example, describing the delights of dangerous drugs and how to secure and use these drugs, or, perhaps, a blatantly racist book.

While the activity of our recent past would seem to suggest great constrictions imposed by adults on the intellectual freedom of adolescents, balancing factors are gradually increasing the attention paid by the library profession to the question of intellectual freedom and the beginning of a stiff resistance by librarians, including high school librarians, against censorship. Library periodicals, including notably *Library Journal* and *American Libraries*, and, in particular, the A.L.A.'s *Newsletter on Intellectual Freedom*, now report as a matter of course on censorship attempts and provide a public forum on issues of freedom. While the Fiske study⁸ in 1959 revealed a tendency of school and public librarians to censor books in nervous anticipation of possible complaints, it does seem, a decade later, that the American climate for intellectual freedom for the adolescent in the library as elsewhere, has improved during the closing years of the 1960s, although this view would be difficult to document. Even as early as 1963, Jack Nelson and Gene Roberts, Jr., in a rather superficial but carefully researched study, *The Censors and the Schools*,⁹ reported many book censorship incidents occurring throughout the United States, but a surprising number of these incidents were only unsuccessful attempts at censorship. If one judges by the literature of li-

brarianship and by the reports of recent conferences of school librarians (admitting that these may represent the conventional piety rather than the actual practice) the library profession is committed today, with some dissenting voices, more than ever to the ideal of intellectual freedom for the adolescent. Even the United States Supreme Court, in a 1969 decision involving an appeal in behalf of three persons thirteen to sixteen years of age, found in their favor and stated: "In our system, students may not be regarded as closed-circuit recipients of only that which the state chooses to communicate. . . . In the absence of specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views."¹⁰

This decision seems to assure the protection of the First Amendment to children and adolescents, and, at least in the view of the *New York Times*, "it may make it more difficult for public schools to censor student publications or to purge school libraries or curriculum of 'objectionable' material."¹⁰

It may very well be that the crucial issues of intellectual freedom relevant to adolescents' reading during the decade of the seventies will not be centered upon the library at all, but will be of a nature quite different from the issues with which librarians have been grappling during the past generation. Edgar Z. Friedenberg seems to consider the school library and even books themselves as irrelevant to anything important for young people (a view which one can also derive from McLuhan) and to insist that absolutely nothing should be censored. "Young people should be allowed to read anything they want to read. What can happen to kids when they read a book that can't happen to adults?"¹¹ The easy availability in paperback of practically everything, including the allegedly harmful pornography and political writings of a sort that are, by someone's definition, subversive and even revolutionary, does seem to remove much of the point from library censorship.

Perhaps most critical in any consideration of the coming issues concerning young people and intellectual freedom are the developments during the late sixties on American college campuses. Fashions of all sorts tend to filter down from colleges to high schools, and there is already a large and flourishing group of "free speech" underground newspapers in metropolitan area high schools. The word "demand" is beginning to appear in news stories about high school disturbances,

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and adolescents appear to be relishing the heady sense of freedom that was formerly the prerogative of their slightly-elders. Freedom at least to participate in the determination of their own destinies may become increasingly a goal of the members of the adolescent sub-culture, and it is increasingly difficult to deny this freedom to senior high school students who are of legal age to marry and to be drafted. The extent to which true independence of action will ever be granted to those in a state of financial dependence upon their parents is a dubious matter, but it does seem that their enforced protection from books that might harm them will not long continue.

From the point of view of the extension of intellectual freedom, this development would seem to be all to the good, and yet, it seems, the complexities remain.

The librarian dealing with children and young people functions in close proximity to the adult community which controls the schools and libraries, and, as long as schools and libraries exist, will evidently continue to live with the tension between the adolescent and his elders. The latter will presumably continue in their convictions about the harmful potential of books, and young people will undoubtedly continue to find the forbidden interesting, so that censorship skirmishes are unlikely to disappear altogether.

The real danger to intellectual freedom among the young may well come from an erosion of the ideal itself, already apparent among a vocal minority of college students. The resort to violence and the forcible prevention of speech by those with whom a group of students disagrees, already have occurred at Harvard, at Dartmouth, at Columbia, at New York University and elsewhere, even at Berkeley, home of the Free Speech Movement. The impatience of young people with the ideal of the free marketplace of ideas, where all points of view are aired, is often based upon an appealing idealism and an eagerness to right a glaring injustice, as well as upon a true instinct that those who would maintain the status quo can often be skillful in prolonging rational debate for their own purposes while hypocritically quoting John Stuart Mill.

But the liberal ideal of the free marketplace of ideas, for all of its near-impossibility of perfect realization, is nevertheless a viable ideal; indeed its maintenance as an ideal may very well be a condition for the continuance of any worthwhile civilization. It is crucial that young people have some sense of its central importance, especially in an

age when the tradition of civility and of rational discourse in which the ideal originated and developed does not appear to be a strong or visible influence in the society.

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Freedom of Access, Partially Achieved

HOYT R. GALVIN

SUBSTANTIAL ADVANCEMENT toward complete freedom of access to American libraries occurred with the end of legally supported segregation. If segregated library service is illegally practiced anywhere, it would likely be accompanied by a poverty of library materials.

For many people, however, public libraries still have a variety of barriers such as: a) unfavorable historical images, b) legal integration, but with staff reservations, c) uninviting physical facilities, d) collections of materials inadequate to meet reasonable needs, and e) personnel seriously lacking in service attitude, service efficiency, and knowledge of library materials. Similar barriers can exist in private institutions. An illustration is a large retail store in my home community which features fine clothing for women. Open to all, the store has an aura of prestige from years of service to chauffeur-driven, affluent ladies. Some of my friends are reluctant to enter the store. Once inside, they are reconciled by the gracious hospitality of the store's personnel. Librarians, other public service administrators, and retail personnel need to find a means to see and know their institutions as others see them, and to take steps to remove any barriers.

Few libraries directly serve a majority of the people in their service area. Freedom of access often turns out to be more a freedom *not* to use books and libraries. There are many involved reasons for the lack of use of libraries. This article is not intended as a complete enumeration of the reasons, rather, it is mostly a commentary on some of the concerns of the writer as applied to public libraries.

In dealing with retail stores, customers do not continue attempting to buy in a store where the stock is inadequate or the service too poor to meet reasonable needs. They cut off the store so far as future visits are concerned. Thousands of potential library users are cutting off our

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libraries when they fail to get desired materials, information, or service. They may have access to their buildings, but their needs are not being met.

Gerald W. Johnson, writing on "The Role of the Public Library" says: "One obligation resting upon every public institution in a democracy is that of standing ready at all times to render an account of itself to the people and to show cause why they should continue to support it. No institution is so lordly that its right to existence is beyond challenge, and none, except perhaps public monuments, can rightfully claim present consideration on the basis of past distinction."¹

Whereas some users do not come back to libraries, great numbers never come at all. Freedom of access has not knowingly been their concern. In this mass of non-library users are the illiterates and the poor readers. Libraries have appealed to "nice" people—the well-dressed, literate, and cultured. This will be difficult to alter, but the need is so great that every reasonable effort must be extended to do so. What could make the illiterate and the poor reader more skittish than an institution with row after row of books serviced by personnel certain to spot literacy deficiencies with the first spoken word? If the poor reader does brave the storm of concern to enter, he may immediately be embarrassed when he realizes that books of his reading level are segregated in an area for children. To serve both the advanced child and the beginning adult reader, some community libraries are interfiling adult and children's non-fiction.

Also, the most socially conscious librarians, imbued with a desire to serve the poor reader, can create an unintended barrier with a misunderstood word, motion, or facial expression. Due to their background and necessary training, librarians are at home with words. In contrast, the beginning reader often comes from an environment where words are less important. Actions, tones of voice, and facial expressions are their keys for welcome and equal treatment. Love and kindness must undergird the librarian's efforts with the poor reader, and through that love should evolve an appropriate attitude for service.

This same idea was stated in the National Book Committee's *Neighborhood Library Centers and Services*: "It is well known that the poor—as all of us—will accept help from those who treat them as persons of worth and will resist the worker who acts 'as one having authority.' Thus, there is need for an educational institution with an informal atmosphere which will meet the poor on their home ground

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and whose workers will give individual help on a basis of mutual acceptance.”²

At the other extreme from the deprived and the poor reader is the intelligent, trained, highly paid person who cannot allow time to be occupied by some of the established library routines. Earning ten dollars or more per hour and being under pressure to achieve, he finds that an hour going to and from a library plus the time to find the information is more expensive than a cross-country telephone call to get information from an unimpeachable source. To serve such people effectively, the red tape must be cut by providing excellent telephone reference service, photocopy and messenger service, telephoned and teletyped interlibrary loan services, and wide use of the mail to get information to the time-conscious user.

Between the poor reader and the busy, affluent citizen are many adults who also have been alienated from books and libraries. The causes for this alienation may include long forgotten childhood reading deficiencies, slow maturity as a student, curriculum-oriented library images, or torture with the sacred cows of literature which were mandatory reading during school days. Whatever the causes, these citizens tend to limit their reading to portions of newspapers, magazines, and the instructions for operating newly-purchased gadgets. These people have no desire to enter a building filled with books.

For some persons, life is dull and unappealing if their bodies are not in motion or if they are not spectators of other bodies in motion. Reading has rare appeal for these action-oriented, auto-driving, ball game-watching people. Serving their informational needs requires libraries that provide other types of media to supplement the printed page and good telephone reference service.

Libraries are the most economically effective educational institutions man has devised, but their use depends upon the will of the user. Today, libraries serve a minority directly, and the majority only through scholarly and research productivity, media newswriters and commentators, ministers, and leaders.

To reach and serve the unreached, libraries must use new means and develop new images. For our complex society to achieve its potential, people must repeatedly revise social attitudes, political viewpoints, technological know-how, and manual dexterity. Libraries and library science have the materials and techniques to serve mankind for these renewal processes, but to be fully effective libraries must reach and appeal to more people. The problems cry out to libraries

and other educational institutions to be more effective, for them to try new approaches inside and outside their walls, to work from new or more inviting quarters, to provide more varied media vital to people's needs, and to serve with personnel not only competent but imbued with a desire to serve all of mankind.

For that small percentage of determined library users, the library cannot be hidden. For the majority, however, a prominent building location with convenient access is a major factor in the extent of use of the library. Even with the recent federally subsidized construction, the average age of public library buildings in the United States is about fifty years. Not only were these older buildings planned during a period when printed resources were limited and the communities which they serve smaller, but many of the buildings are located on sites removed from points where a majority of the people pass frequently in the normal pursuit of their day-to-day activities.

Most of the older public library buildings are monumental in style. The user must brave a long flight of steps and pass through Corinthian columns to enter through enormous doors with bas-relief into formidable interiors. Some never enter, and others who do enter have an impulse to flee from these monuments for books. For the physically handicapped, entry may be impossible.

Too few librarians are preparing statements of programs to indicate conclusively the inadequacy of their buildings and to demonstrate the size and nature of new facilities required to extend good library service to their area. Even more deficient of their trust and community responsibility are thousands of public library trustees across the land who appear to interpret their trusteeship to be that of maintenance and preservation of what exists. Their most vital job is to interpret needs and to campaign for funds to provide quarters, materials and personnel so that their libraries may reach their potential for service.

Some communities with an adequate main library facility have neglected to extend service through branch buildings or rented space in newly populated areas. Successful sites for branch outlets can rarely be found in residential areas, in parks, or on school property. In the majority of suburban communities, the most frequently visited spots are shopping centers. Branches in or immediately adjacent to a large shopping center are assured of success if the hours of service are long and the material and personnel budgets meet reasonable needs.

More and more, I am developing a conviction that construction of

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a branch library building should be the exception, and that most branch libraries should be in prime leased space inside shopping centers. Many shopping center managers recognize the traffic-generating power of a library and will provide advantageous space rental rates. Whenever the lease expires, library administrators and trustees have the opportunity to evaluate the effectiveness of the location. If a move is then indicated, the permanency of a library-owned branch structure would not hamper the decision.

The interior design of library space should exhibit the utmost in flexibility to accommodate the changing tide of activities, and to take care of future adjustments in space utilization. The seating should be comfortable and inviting. Row after row of multi-passenger reading tables must be avoided. Lounge groupings, individual reading tables and displays should be used to break the awe of massive reader seating areas.

For the more deprived neighborhoods, branch outlets or stations need to be more closely spaced than for communities where families have one or more cars for transportation to shops and libraries. Again, rented space may be the logical solution, since the neighborhoods served may be converted for other uses as housing patterns are evolved. A less imposing but inviting rented structure housing appropriate materials, along with an ingenious staff, may be more successful during the period of need than a more permanent branch library building.

Wherever the building is located and whatever the nature of the space to be used for library purposes, both heating and air-conditioning will be necessary features in most climates of the United States. To attract readers, deprived or affluent, library space should be as comfortable as a theater or tavern. For a small, temporary space, window air-conditioning units are economical, easy to install, and satisfactory.

To effect freedom of access to libraries, adequate buildings on good sites will not be enough. There is no substitute for long hours of service. Like the gasoline station, drugstore, or modern shopping center, libraries must be open and available at hours convenient to the people in the area served. As with the suburban shopping center, some libraries will conduct a major portion of their service after the hours when many offices are closed for the day. Library personnel should be aware of this character of library service when accepting the challenge of library work.

Fine quarters open long hours will not achieve their potential if the public service personnel are grouchy, possessive, authoritarian, or unapproachable. To be sure, the library personnel must be competent at finding the information and material to meet the needs of the users, but courtesy and helpfulness are necessary characteristics if the unreached are to be reached, and if the reached are to continue to come. This competency, courtesy, and helpfulness should be apparent to both the walk-in user and the telephone customer.

Like the retail store to which we return again and again, the successful library must have the materials desired. The diverse media available to libraries today, plus the rivers of literature flowing from the presses, present a selection problem for the library personnel. The community should be studied to assist in determining the needs. Although present customers cannot be ignored, their needs should not dominate. The following are some sample questions about materials and material services that librarians and trustees can ask as they survey their efforts to reach the unreached:

- Why only books? Why only non-controversial books?
- Why only hardcover books?
- Should titles popular at paperback outlets be added?
- Are titles being acquired to meet the needs of non-users?
- What types of material would serve beginning readers?
- Are staff members released from desk duty to work in deprived neighborhoods to learn to select materials for this segment of society?
- What happens when the beginning adult reader enters the library?
- What means are used to invite the beginning adult reader?
- Is there an adequate supply of titles that are most used by the beginning adult reader?
- Does the collection meet the needs of students?
- Are paperback copies of titles in demand by students used to supplement the collection?
- Is the business and technology collection adequate to meet the needs of the businessman and technician?
- Are the telephone lines overloaded for those who seek telephone service?
- Is a photocopy machine available to save the reader's time?
- Why so few magazine subscriptions? How can the library dollar be better spent than for a wide selection of current magazines?
- Are the back files of magazines maintained to improve resources for reference service?

Freedom of Access, Partially Achieved


- Why is the phonorecord collection limited to classical music?
- Is prompt, aggressive attention given to interlibrary loans?
- Are most reference questions answered? If not, why not?
- Are 16 m.m. motion pictures available for individual and for group use?
- Are the popular 8 m.m. films available for loan?
- Is the library stocking and lending the new cassettes?
- Are toys, games, and puzzles available for children who are not ready to read, or who are not in the mood to read?
- Are story-telling sessions conducted in the library and by television to help introduce children to the world of literature?
- Does the library have large-print books for the visually handicapped?
- Does the library exhibit the work of local artists?
- Does the library lend framed prints of art works, and pieces of sculpture?
- What are the current issues in the community, state, and nation?
- Does the library have appropriate, useful materials on these issues?

Finally, there is the continuing need to tell the library story. If good service is provided, the satisfied customer will pass the word, but this will not suffice. A planned program of publicity is a necessary ingredient of library management. Even with good service and wide publicity, some people will not be listening. Some in fact will not be reached, but the unmet needs of the people in our relatively affluent nation cry out for libraries and for all educational institutions to go to the people—to meet them on their own levels, and to find the means to serve their needs.

Freedom of access, in itself, is not the only responsibility of librarianship. Until the service is actually rendered, and the informational, inspirational, and educational needs of the entire community are met, the job is not done.

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The Rights of the People and the Role of Librarians

ANN FAGAN GINGER
AND
CELESTE MACLEOD

OUR JUDICIAL SYSTEM assumes that citizens know the law. We declare that ignorance of the law is no excuse for its violation. We maintain public schools so every person can become educated for his duties of citizenship, as well as to earn his living, but we do nothing to teach the fundamentals of law in our schools, nor do we refer people to clearly written books on legal questions.

People need access to ideas about freedom. They need access to precise information about their rights and the ways of retaining these rights. Sometimes this means help in finding a competent lawyer who will represent a person who has no money; sometimes this means finding a book that accurately describes the rights of a person who is being evicted, being held in juvenile hall, or awaiting a military trial. If there are not enough such books in print at this time—books that explain the law in terms the non-lawyer can comprehend—they must be written and put onto the shelves of public libraries. We can no longer afford to keep the law a secret.

Librarians today, whether they work in a public, law, academic, or special library, can perform a valuable service for both their patrons and the democracy of our country by recognizing the importance of the people's need to know their rights, and by providing them with the necessary materials and information. The advice given in some library schools and in the past (lead the patron with a legal problem to the *Martindale-Hubbell Law Directory*, then walk away fast, before he can ask you for more help) is inadequate for today's society.

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We need collections of pertinent legal materials, and concerned librarians with some knowledge of basic legal questions and bibliography who can evaluate a patron's questions and refer him to the most useful source.

Serious difficulties arise when the law is kept a secret. For one thing, citizens do not go to lawyers for a redress of grievances unless they already know enough about the law to believe they have a legal problem for which the law has a remedy. A person does not try to get something if he does not know it exists or that he has a right to it. For example, in New York City, if someone talked about abolishing rent control today, there would be a rash of mass meetings leading to many lawsuits. The person proposing rent control in most other areas of the country might be asked if he were some kind of a Communist.

Another problem arises when people feel their rights as citizens have been violated, but do not know how to get these rights protected peacefully through the courts. If more citizens understood how to fight their grievances by the legal methods available to them under our Constitution, fewer of them might be arrested for allegedly violating a law while fighting for their rights in the streets.

Also a difficulty is that the people sitting on juries can only absorb a certain amount of law during a trial. Unless they know some basic legal concepts before they are selected for jury duty, they will not be able to listen effectively to the facts in the case because they will be hung up on the legalisms. For example, if they come into the jury box knowing that the First Amendment guarantees the free exercise of religion, and understanding the legality of conscientious objection to participating in war, the lawyers and the judge will find it easier to present the facts and the law in a case concerning a particular conscientious objector.

The middle-class or wealthy adult with a legal problem does not generally go to a library for help—he consults his lawyer. The bulk of requests to librarians will come from a group that can be loosely termed “the disadvantaged.” This includes the unemployed, indigents, welfare recipients, heads of one-parent families, members of racial minorities, students, and juveniles. A large percentage of these people are poor; they do not have the money to hire a lawyer listed in a law directory; they have the scantiest information about legal processes, and yet they are the group most in need of legal help, the segment of the population most frequently arrested. Those most in

need of information often have an additional language or cultural barrier to communication.

In addition, different laws are applied to the poor and disadvantaged and to the middle and upper classes. Broadly speaking, law for the disadvantaged and the poor is administrative law, not law written by legislators or made by judges or juries, even though it is applied in cases that would be tried by judges and juries if the clients were not poor. Social workers and welfare workers are the judges in the family problems and squabbles of poor people. The social worker is not the judge when most professionals get divorced. The judge decides.

This means that we have two kinds of law, one for the people who can afford a lawyer and a court, and the other for people who cannot. The late Professor Jacobus tenBroek wrote telling articles on the dual system of family law¹ describing precisely how people with means go through the judicial system with lawyers and get legal redress by judges and juries, while people without means get justice, if it is justice, through welfare workers and administrators of social agencies who must decide what to do for them based, in part, on the social work facilities available at the time.

There is nothing inherently better about an official called a judge making a decision about people's lives than an official called an administrator, social worker, or housing superintendent making the decision. The judge is more likely to produce a fairer judgment only because the procedures followed in a courtroom are the result of centuries of struggle to provide safeguards for the weaker side. Under the best of circumstances, the judge has a set of legislative or judicial standards governing his decision, and he has the benefit of careful analysis of trained advocates who discuss the facts in the case being tried measured against those general standards. What he does is public, and frequently he rules only on the law, while a representative jury rules on the facts. He knows as he acts that his rulings are being recorded and that a higher court may reconsider his decision. The lawyers, too, are constrained to play their roles so as to avoid criticism by an appellate court on the one hand, and by their clients on the other.

These safeguards—definite standards for decision, limitation on fact finding to verifiable facts that are relevant, right to counsel, to public trial, to appeal—are not available in most administrative decision-making, and certainly not in agencies dealing with the poor.

The law for poor people is not found in a book of court decisions,

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because most decisions are not made by appellate courts and many are not made in writing. Neither is it found in the statute books. The law is in oral or written rules that are largely hidden from the public, from the group of people governed by those rules, and even from lawyers. For example, five years ago a lawyer representing poor people in Mississippi could not get a copy of the state regulations used to decide eligibility for welfare payments, although a book of regulations did exist. It was finally obtained by someone who knew a social worker, and it has since been reproduced. This was considered a great feat—to discover and disseminate the law. The same situation existed in the field of draft law. Until 1968 there was no way for clients, or even lawyers, to obtain new selective service regulations or local board memos promptly on promulgation, although they were used by draft boards in deciding cases.

What are the criteria used in deciding which tenants qualify for the scarce public housing units in our cities? Or the rules governing expulsion from academic public schools and transfer to disciplinary or continuation schools? In an administrative field that concerns non-indigents, that is, consumers, it is almost impossible, for example, to get to the root of decision-making on the level of insecticides permitted on agricultural products.

Administrative law, by and large, is secret law. It is made in secret, it is kept secret, and it is changed in secret. Yet it is as binding as statutes or court decisions on administrators who decide cases involving all people who are not able to go to the judicial system for adjudication of their rights. Librarians may feel they need the qualities of Sherlock Holmes to collect such materials, but they are in a better position to get them than the lawyers who need them. An administrative agency is more likely to send a copy of its manual to a library requesting it for part of its general research collection, than to a lawyer with a client who wants to sue that agency.

Traditional Roles in a New Light

Librarianship has always been a service-oriented profession, collecting and disseminating material to meet the needs of the library's patrons. In the areas of constitutional and poverty law, librarians are needed today to perform traditional tasks cast in a new light, a light that keeps visible both the rights of the people in a democracy to know their laws, and the laws themselves. To the cautious librarian who fears that giving legal help to a patron may endanger both him-

self and the patron, it should be noted that in the field of medicine, which is equally shrouded in a hands-off policy, the librarian has no fear in handing a patron a book on first-aid. What is sorely lacking in libraries today are books on legal first-aid.

The Meiklejohn Civil Liberties Library, in Berkeley, California, offers the following suggestions as to how the concerned librarian can provide and service a relevant collection of legal information that will be useful to his patrons:

1. *Collect the laws.* Most libraries have the official state and federal statutes (or should have), but the collection of even the smallest public library should be broader. If each library made a list of the most important administrative agencies in the community and wrote for a copy of the regulations of each agency, that would be a tremendous step forward. For assistance in compiling the list of agencies, ask any Office of Economic Opportunity legal service attorney, active Community Action Program worker, National Lawyers Guild chapter, or any social workers' organization.

2. *Collect secondary materials, particularly those which relate to the needs of your library's clientele.* Abundant secondary sources are available to help in keeping up with developments in the field of public law. Happily for the library's budget, most of this material costs little or is available free on request.

- a. *Periodicals.* America today is a land of movements and causes, many of which publish periodicals you can collect for your library. As a sample of such publications, the list of serials collected by the Meiklejohn Library for the letter "C" includes: the Central Committee for Conscientious Objectors, the Citizens Alert, Inc. (which acts as a watchdog of the San Francisco Police Department), Citizen's Committee for Constitutional Liberties (which is working to repeal federal detention camp legislation), Committee for Non-Violent Action, Committee to Free Morton Sobell (out of business after nineteen years of seeking the release of this Cold War defendant), the Congressional Record, the Connecticut Commission on Civil Rights, Constitutional Rights Foundation (which prepares materials for California classroom teachers), Counterdraft, and Current.² Many of these publications are fugitive and ephemeral, but they are also timely and important documents, well worth the time it takes to write for them.

- b. *Organizational material.* Write to the organizations and causes that deal with subjects that can help your library's patrons; if they

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are local organizations, advise them of your legal collection and invite them to use it. Ask for their publications. In addition to their periodicals, you may receive pamphlets and brochures that answer the questions most frequently asked by patrons, in language they can understand.

c. *Subject files.* One of the most useful sources of legal information is an up-to-date subject file on legal topics that concern members of your community. It will include newspaper clippings, articles from periodicals, and other printed material, such as the brochures you receive from organizations. Today every library in an urban community should find the following subject headings useful:

- (1) rights of students,
- (2) rights of juveniles,
- (3) draft and military law,
- (4) school integration,
- (5) academic freedom,
- (6) police practices in the community (this file, which collects newspaper clippings concerning police action, can be useful both to citizens and to the police department; invite the police department to contribute material to the file and to use it), and
- (7) the Bill of Rights (Special emphasis can be placed on collecting material for teaching the Bill of Rights in school. A flyer to schools and teachers can alert them to this service.).

3. *Keep a list of agency referrals and help patrons use them.* Compile and have available near the *Martindale-Hubbell Law Directory* an up-to-date list of local government agencies and other referral sources, annotated to describe the services each agency performs; its hours of service, address, telephone number, and other pertinent information. But merely handing this list to a person with a legal problem may be a waste of time for both librarian and patron, because the people who come to libraries for legal help are likely to be intimidated by agencies and afraid of the government; if Spanish-speaking, they may not know English well; if Black, they may not speak the white-collar English of the middle-class administrator. To provide genuine help to such a person may require assisting him in making the initial contact with the agency—telephoning the agency for an appointment or helping him draft a letter that explains his problem. Such action may seem out of the librarian's line of work, but if one reviews the articles that have appeared in library journals

in recent years detailing elaborate schemes for turning on the disadvantaged to the benefits of libraries, this may appear as a simple and appropriate gesture that will serve two purposes: it will help a person in need and it will turn him on to libraries more surely than a dozen clever parties of introduction.

4. *Publicize the collection.* Having collected this useful material, librarians should find ways to let the interested public know it is there. If the library has a monthly newsletter of acquisitions, an issue could be devoted to describing and explaining the law collection, with perhaps a foreword by a local attorney, pointing out its importance. The local newspaper and regional publications could be sent publicity releases or invited to do a feature article on the law collection.

Library displays are another way to advertise and engender interest in the law. The right to justice must be advertised, the methods of achieving it must be publicized, as well as the sources of legal assistance, if there is to be justice in the land. Shouldn't there be an exhibit of materials on the Declaration of Independence in the library on July 4, celebrating the successful revolution against oppression from overseas; a display on the United Nations Declaration of Human Rights for December 10, and a display on the Bill of Rights on December 16?

Bibliographies, both on the general law collection or on a special part of it, can be immensely useful. And a series of lectures on the law sponsored by the library, drawing on local lawyers, legal defense organizations, social workers, teachers, police officials, legislators and judges as speakers, will stimulate interest in the law as well as publicizing your collection.

New Roles for Librarians

For those librarians interested in charting new paths for their profession, the following additional ideas, although directed to law librarians, have been found useful by other librarians. They may also stimulate some "activist" library school students seeking a relevant way to work for the improvement of society to specialize in law librarianship and to help pioneer in the development of new-style law librarians.

Today every citizen who believes there is an urgent need for constructive social changes in this country, and who wants to achieve these changes peacefully, has a responsibility to work actively in

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whatever capacity his talents and training indicate. Librarians can make a valuable contribution by helping lawyers who are working to have social questions decided peacefully, by reason and due process in the legislative halls, administrative agencies, and courtrooms. These lawyers need the legal materials that librarians can provide.

Because of this pressing need for pertinent material, the Meiklejohn Civil Liberties Library was established in 1965 to collect legal materials pertaining to human rights, a part of the field of constitutional law. In the United States legal system, this can be subdivided into three categories: civil liberties, due process, and civil rights. The library collects the complaints, pleadings, interrogatories, depositions, and briefs that lawyers file in cases pertaining to these subjects; it collects only material that cannot be found in any of the printed books of court opinions that are available in typical law libraries. It is a working library for the use of lawyers and others specializing in the field of human rights.

Since these cases frequently have as clients the disadvantaged who pay their lawyers little or nothing, the library operates on a well-worn shoe-string, depending to a marked extent on the cooperation of concerned librarians, court clerks, and law offices across the country who send the library copies of legal materials that come to their attention. The library prepares a monthly list of acquisitions, lists its material in the *Civil Liberties Docket*³ which is distributed nationally to lawyers and libraries, and sends out material to individual lawyers and organizations on request.

The Meiklejohn Library offers to assist other libraries in setting up somewhat similar services geared to the local needs of patrons, and seeks suggestions for the improvement of its method of work from others already engaged in similar work. There is need for quick transmission of legal information across the country to people actively working on constitutional questions. Since there will always be a shortage of lawyers in this unremunerative field, each piece of research and writing must be used many times by many people in many cases in order to make a dent in legal precedents, and to help solve problems in the desperate lives of individuals who are at the bottom in our society.

Law librarians can do more than pass on significant material for lawyers to use. They can edit material for publication and prepare annotated legal bibliographies of cases on a particular point from which a lawyer can write a brief much more quickly than if he starts

from scratch. If they can spell, punctuate, think, outline, research, or write, their talent is needed. And their time and talent are wasted if they collect material for one person only. If the important point of law in a case or document is found and written it will be ready for some lawyers to use in court in their pending cases.

But to write effectively for lawyers, the nonlawyer librarian needs a working knowledge of legal language, as, for example, to list a particular article under "Equal Protection," (a legal concept guaranteed in the Fourteenth Amendment), instead of under "Civil Rights," a lay phrase. If librarians have not learned legal terminology in school or on the job, they will have to learn it by individual study, or by spending a few sessions with an interested lawyer. Books and articles in annotated bibliographies should be listed with legal concepts pinpointed, to give lawyers quick access to information needed for their cases.

Two recent examples of legal materials edited from items in the Meiklejohn Library point up a practical use for such materials, and may stimulate some creative law librarians to look at their own materials in the field of human rights with an eye to editing them for publication. In 1968, a commercial law publishing company requested an article on police misconduct litigation. The library staff took all the complaints it had collected in suits against the police, cut and pasted them together, edited them, added comments, and thanked the lawyers who had supplied them. The resulting article⁴ may help lawyers all over the country with clients who want to sue the police for false arrest or physical attacks and may perhaps help some to win their cases.

Later, the Meiklejohn Library obtained a copy of the transcript of the *voir dire* (questions to prospective jurors) in the trial of Huey Newton of the Black Panther Party. Defense counsel Charles R. Garry used 290 different questions seeking to determine the basic racial and social attitudes of prospective jurors, filling over 1,500 pages of transcript with the examination. So many requests for these questions were received that in 1969 the staff cut and edited the transcript for publication in book form, with an insightful essay added on sociological aspects of the jury selection process.⁵ This book is expected to be of value to any attorney defending a member of the Black Panther Party, or defending any minority group member where the racial or social prejudice of prospective jurors may affect the outcome.

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New Roles for Library Schools

If there are to be new style librarians in the field of law, the library schools must help train them. Basic reference courses need to cover more about the law than the United States Codes. Any area with an accredited library school will have lawyers who are able and willing to lecture to library school students on the law; their lectures could be a unit in one of the required reference courses, or be arranged as a separate course. Students specializing in law librarianship need more than bland courses in legal bibliography that are geared to training clerks who recognize the titles of law books and can produce them on request.

Faculty members, administrators, law librarians, and constitutional lawyers need to come together to re-evaluate and actually to change the legal training in library schools to meet the needs of our society. The field of librarianship needs to recognize the importance of the right of the people to know the law of the land.

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The Behemoths and the Book Publishers

WILLIAM R. ESHELMAN

THE WORLD OF BOOKS is basic to librarianship, and librarians are consequently very much concerned with the development and growth of publishing. A fundamental tenet of librarianship holds that the book collection, as far as is possible, should reflect all shades of opinion. Clearly, book selection for libraries can be done only from the titles which are published, and in this sense the publishers are the primary book selectors for libraries.

Traditionally, book publishing in the United States has had its share of independent, strong-minded men, whose selections for publication sometimes reflected their enthusiasms. The balance of opinion sought by librarians for their book collections was obtained by an operation of the market—books of one extreme were offset by books of another. Librarians have tended to believe that the mergers of one publisher with another were a cause for worry, seeing this development as one which would reduce competition and thus limit the opportunities for a full spectrum of views.

This belief, of course, is but one manifestation of an enduring motif in the American mythology which holds that the nation's economy is pluralistic, teeming with individually-controlled units of production and distribution, all in free competition with one another. Wide choice from among the many options will marginally support extremists, while giving solid backing to the broad majority. Given many alternatives, the individual's exercise of choice is educational in itself, and freedom inheres in keeping as many opportunities available as possible. The true believers begin to worry when economic power becomes concentrated, either in big government or in big business.

Since 1955 there has been an unprecedented merger movement in the United States. From 1960 to 1965, the number of mergers each year ranged from 1,300 to almost 1,900; in 1967 it rose to 2,384, and

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then jumped the next year to 4,003—an increase in one year of 68 percent. In its suit against Ling-Temco-Vought (L-T-V), the justice department said that in 1967 the two hundred largest industrial firms held almost 59 percent of all manufacturing assets (compared to 48 percent in 1948). And a 1969 report from the President's Cabinet Committee on Price Stability states that of the total assets of all U.S. manufacturing corporations, 47.6 percent are owned by the one hundred largest companies.

Even more disquieting, some analysts think, is the advanced state of interlocking directorates. Not only does this solidify the monolithic tendency, but it eases the difficulties of takeovers by conglomerates. On the afternoon of the day Wilson & Company, meatpackers, first learned that it was being taken over, it had lost corporate control to L-T-V.

By 1967 the General Motors directorate was interlocked with sixty-five other directorates, U.S. Steel's directorate with eighty-nine. Still more alarming is the concentration of power in banks: Morgan Guaranty held an influential amount of stock (5 percent or more) in 270 companies, and its directors sat also on the boards of 233. With their \$607 billion in assets, held as trustees of pension funds, foundations, private trusts, and other actual owners, these banks exert influence by stock purchase as well as by their normal function as a source of credit.

As the *New York Times* editorialized recently, "the emergence in the last few years of the one-bank holding company has threatened to lead to giant financial-industrial conglomerates, similar to the old *zaibatsu* combines in Japan."¹ The word means "money clique" in Japanese, and until now there has been no exact parallel in other countries. In 1937, four *zaibatsu* concerns directly controlled one-third of all bank deposits, one-third of all foreign trade, half of Japan's shipbuilding and shipping, and most of the mining, metallurgy, heavy engineering, chemical, paper, brewing, sugar, canning, and other industries. The breakup of the monoliths was a major aim of the Allied occupation after 1945.

In the summer of 1969, the House Banking Committee reported a bill to maintain the separation between commerce and banking. What is needed, however, instead of this bandaid operation, is a comprehensive examination of the total subject of financial regulation and structure. As New York superintendent of banks, Frank Wille said,

"We have had enough legislative patchwork on banking matters at the federal level."²

Of the conglomerate corporations, a number have acquired one or more publishing companies in recent years. Examples include Radio Corporation of America (Random House, Pantheon); Raytheon (Heath); Litton Industries (American Book, Van Nostrand Reinhold); Xerox (Bowker, Ginn); Crowell, Collier and Macmillan (Stechert-Hafner); Leasco (Pergamon); Columbia Broadcasting System (Holt, Rinehart & Winston); Bell & Howell (Merrill); and Amtel, Inc. (Barnes & Noble). Somewhat akin is the Time, Inc./General Electric joint venture called General Learning Corporation.

The acquiring of one publishing house by another—a horizontal merger—has been a familiar happening in the industry for many years, and there is an attitude of resigned acceptance toward it. But when, in the mid-sixties, the International Telephone & Telegraph Corporation (ITT) acquired Howard W. Sams, it signalled a change in kind, not just in degree. Sams, of course, had earlier acquired several other companies, including the Bobbs-Merrill Company. ITT, a good example of a conglomerate, owns two hundred companies in sixty-seven countries and has 241,000 employees. In addition to its original communications interests, it now owns Avis Rent-A-Car, Paramount, Hostess Cupcakes, and the Sheraton hotel chain.

Besides the horizontal merger—illustrated by the acquisition of one published by another (Knopf by Random House)—the other categories are the vertical merger—a publisher acquired by a manufacturer (H. S. Stuttman by American Book-Stratford Press), and the conglomerate merger. This last type, which is often the unwilling takeover of a small company by a huge one, is also characterized by the unrelatedness, or diversification, of the various enterprises held by the conglomerate.

The term "conglomerate" was an invention of the New Deal's Temporary National Economic Committee, which in the 1940s saw the threat of concentrating economic power by means of diversification. In 1968, Chairman Philip A. Hart of the Senate anti-trust subcommittee, stated, "I am convinced that real dangers for our economy—and our way of life—lurk in the headlong rush toward the formation of conglomerate corporations."³

Not all conglomerates begin outside publishing and take over; some publishers have tried their hands at the game. In 1959, the Times Mirror's (TM) operation was heavily dependent on the profits of the

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Los Angeles Times. It owned the Times Mirror Press, much real estate, and a paper mill in Oregon City. Everyone living between Denver and Honolulu had his telephone book printed at the Press, and the paper mill's operation has been strengthened by \$75 million and 150,000 acres of fine timberland.

Over the past eight and one-half years, the TM conglomerate has acquired some twenty companies, seven of which are related to publishing, including New American Library and World Publishing. In 1968, TM's output was almost 800 titles, one of which (*In Cold Blood*) sold over two million copies in eighteen months.

The growth of no single conglomerate, however, has furrowed the brows of librarians more than the activity of the Xerox Corporation: University Microfilms, Professional Library Service, Bowker, and Ginn—all have been swallowed up. The example of Bowker—one of the librarian's two major private publishers—which saw its president, treasurer, and the editor of *Library Journal* disappear from its corridors, illustrates these fears. Can the conglomerate evaluate the performance of its subsidiaries any other way than by the profit-and-loss statement? As Herman Kogan, *Chicago Sun-Times* literary critic, said: "Will it continue to be possible for a publisher in a subsidiary to put out a book because he thinks it is a good book, although he may lose money on it? If he puts out a few of these a year, will the parent corporation clamp down? Who will make the decision about what should be published?"⁴ In time, some answers to these questions may emerge.

Among the advantages which proponents of conglomerates mention are:

- 1) more innovation, a spur to editorial development,
- 2) organizational improvements resulting from the combining of talents and resources,
- 3) more effective dealing with government,
- 4) more efficient use of the advertising budget,
- 5) top-flight management team for coordination of all units, and
- 6) adequate capital funds for expansion and development.

And in the international market, Willard F. Rockwell, Jr., of North American Rockwell, maintains that bigness is essential: "A company has to be big to do today's big jobs, tackle social problems, compete in world markets. Look at what has happened in England: The British Government permitted the country's two biggest electrical manu-

facturing companies to combine and become five times the size of the next competitor down the line. . . . They are going the same route in France and Germany.”⁵

In the spring of 1969 the conglomerates (whose leaders prefer almost any other term—such as “congeneric” or “free-form” corporations) suffered attack on three fronts. Securities and Exchange Commission Chairman Hamer Budge said before a House securities subcommittee that the wildfire growth of conglomerates reminded him of the pre-Depression speculative spree in which operators like Samuel Insull built their holding companies. The president of the New York Stock Exchange suggested that they might “delist” two conglomerates, thus preventing trading in their stocks. And third, assistant attorney general Richard W. McLaren said that he believed conglomerate mergers were injurious to the economy in that they tended to reduce competition and increase prices.

This new direction taken by the Justice Department resulted in suits to make L-T-V rid itself of its controlling interest in the Jones & Laughlin Steel Corporation, and to force ITT to give up Canteen Corporation. Former anti-trust chief Donald F. Turner had held that section 7 of the Clayton Act could not be applied to conglomerate mergers; thus, under the Johnson administration little if anything was done. Turner's successor, Richard W. McLaren, joins Senator Hart and Congressman Wilbur Mills in believing that something can be done. As analyzed by Louis W. Stern, this is “a rather unusual twist to traditional Republican antitrust philosophy.”⁶ The appearance of a mammoth corporation may not foster free enterprise, but may well restrict the opportunity for smaller corporations to grow and develop. “Furthermore,” Stern says, “mammoth corporations—like mammoth governments—once put in motion, are very hard to control. Perhaps the Nixon Administration has learned some lessons from the growth of the military-industrial complex and has found that, once under way, trends generated by the interactions of mammoth conglomerations, of any type, are extremely difficult to reverse.”⁶

Assuming the worst—that numerous independent private publishers have indeed disappeared, that their freedom to publish has in fact been restricted by their conglomerate owners, and further that the anti-trust division of the Justice Department finds that it cannot successfully prosecute conglomerates—what trends are there to counteract such a restriction of freedom to publish and be published?

First, and most likely to be overlooked, is the still significant num-

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ber of independent publishers who seem to have no intention of merging or being taken over, or at least who have held out so far. While any one of the following might lose its independence by the time this article appears, the list is illustrative of the point: Atheneum; Cambridge; Coward-McCann; Dodd, Mead; Dutton; Farrar, Straus & Giroux; Harper; Harcourt, Brace; Houghton, Mifflin; Lippincott; Norton; Oxford; Regnery; St. Martin's; Scribner's; and Viking. These firms accounted for about 15 percent of the titles published in 1968.

Second, and perhaps equally important, is the increased publishing by the American university presses. In the two decades since the Kerr Report in 1948, the number of titles published has grown from 727 to 2,800 and the gross sales from \$4 million to \$32 million. The number of members in the American Association of University Presses (A.A.U.P.) has increased from thirty-five to sixty-nine, even though membership qualifications have become more stringent. Also, new university presses are striving to raise their standards in order to qualify for membership in the A.A.U.P.

If the figure for the annual total 1968 book production (30,000) is adjusted to eliminate reprints and new editions, university presses accounted for about one out of every ten new titles published, but they accounted for only a tiny part of the total dollar sales volume. Because of the trade publishers' huge textbook sales and best sellers, the university press share of total sales amounts to about 1.5 percent.

Increased vigor in the university presses is becoming more apparent. Chester Kerr, in taking a second look at the field in 1968, mentions the following, among other developments:

American university press publishing has matured. To eagerness has been added substance. To energy, balance. To inclination, experience.

With maturity has come identification . . . the purposes and being of the university itself. . . .

The insights and attitudes which account for that maturity and identification have been supplied by a body of trained men and women who know what they're doing and where they're going.

The university, which has become where the action is, has turned into a bastion, a park, a rampart. But it's still the place where the hammer of truth may still be swung. It's still an agency for survival.⁷

Furthermore, university presses are becoming less parochial. A telling statistic, given by Kerr, is that a typical university press now ob-

tains 60 percent of its manuscripts outside its own ivy walls, up from 40 percent in 1948.⁸ Most manuscripts still come from scholars in academe, however, and thus university press publication is not usually available to writers at large.

Third, sixteen new publishing firms were established in the first ten months of 1969. While a number of well-known names were absorbed into larger firms—John Day, Basic Books, Academic Press, Abelard-Schuman—the peak seems to have been passed, at least in publishing. While the direction of these new firms is not at all clear, perhaps in twenty years some of the following names will be known: Hopkinson & Blake; David Lewis; Peter H. Wyden; Outerbridge & Dienstfrey; Pendulum Press; and Aurora Publishing. Whether in time any of them will prove as vigorous and imaginative as Atheneum has been in its first decade remains to be seen. But the trend is a good one.

Fourth, even if the Justice Department is unsuccessful, its suits against the conglomerates will at least deflect the giants, or slow their girth rate. And there is a growing belief that the major conglomerates have found that the profits in publishing are not as great as anticipated; furthermore, publishing is a complex business to manage well.

Lastly, the cloud in John Kenneth Galbraith's crystal ball may have been only a reflection of his own nimbus. While he presents them only as parallels, the similarities between the sixties and the twenties are very striking. As he points out, there were conglomerates even then—the Foshay enterprises of Minneapolis, owners of hotels, flour mills, banks, and manufacturing and retail establishments at random sites in the U.S. and Canada. Then, as now, "financial genius is a short memory and a rising market."⁹ The question is not whether the crash will come, he maintains, but only when.

Authors with unorthodox opinions are cutting their teeth in the underground press, in the little magazines, and sharpening up for publication with Grove Press or Lyle Stuart. The fears of many thoughtful persons were expressed by Harriet Pilpel when she wrote, "Increasing attention must be given to the arguments for a 'right of access' of some kind and to the further argument that, without such a right, freedom of the press exists in large part for the benefit of the dwindling number of people who can afford to own the mass media."¹⁰ On balance, however, the free market seems still to be operating in its usual fitful way, and while conglomerates may be worrisome for the nation's economy, their influence on publishing appears likely to be counteracted by other forces.

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There is an argument that holds that conglomerates, far from being worrisome, are an emerging form of competition on another level. Betty Bock says:

In today's world, maximization of national and of individual choice at lowest cost will not necessarily be served by a deconglomeratization policy based on a theory of super-structuralism. Indeed, we may be driven to accept the fact that . . . priorities among goals and choices of efficient systems for meeting these goals may be appropriate modes of competitive analysis. Competing systems for meeting wants, not the gross size of a company or the range of markets it serves, might then be the focus of competitive policy.¹¹

On the other hand, it may well be that H. L. Nieburg's eloquent warning should be heeded: "What must come is a system of values and institutions to replace economic initiative and private property as guarantors of political independence and pluralism. As economic pluralism disappears, only political pluralism, safeguarded by new institutions of representation, can make the exercise of power both responsive and limited."¹²

Addendum: The perils of trying to deal with so volatile a topic are illustrated in the events subsequent to the writing of this paper. Atheneum, which I took to be inviolate, has been added to the subsidiaries of Raytheon, Inc., thus giving that conglomerate a trade house to complement its textbook firm, D. C. Heath. A third president of R. R. Bowker has just been appointed, Ling is no longer in charge of Ling-Temco-Vought, and Simon & Schuster has been purchased by Norton Simon, Inc. (Hunt Foods & Industries, Canada Dry Corp., and the McCall Corp.).
—W.R.E.

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Trends Abroad: Western Europe

ROBERT COLLISON

GEOGRAPHICAL FACTORS have a powerful influence on intellectual freedom: where several countries are huddled together it is difficult to maintain any kind of effective control without first establishing a common policy. Thus, an overnight train in Western Europe will cross two or three frontiers and the traveller will, unwittingly, transgress the laws of one or more countries by carrying with him material which, freely bought in the first, is forbidden in the second or third. The absurdity of such a situation—whose untenable nature has been underlined by the growth of air travel—has done much to impose a pragmatic attitude to the solution of problems of intellectual control, though progress in some countries is surprisingly slow.

Geography is again the key to some of the variations in treatment within a country. In two areas of any nation—the metropolitan or heavily-populated districts and the port areas—one can usually expect a more permissive attitude than prevails elsewhere within its boundaries. In both areas the temporary stay of visitors from other parts of the world induces the adoption of more liberal attitudes. These attitudes are influenced by the belief that the visitors can have little influence on the country's outlook and by commercial considerations. In addition, the presence of large populations makes the maintenance of strict controls more difficult. This policy may also be reinforced by a feeling that what visitors buy and read is their own concern. Thus, London's Soho, with its striptease shows, its sleazy hole-in-the-corner fly-by-night bookshops full of erotic literature and its general air of corruption would be hard to parallel in other parts of Britain, apart from the dock areas of the largest ports. In a similar way, the kiosks of Copenhagen, with their picture books openly displayed to passers-by, and the sex shops of Sweden, are part of the phenomena of ports that

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are also capitals, and one would not expect to find their equivalent in rural areas in the country. It can be assumed, therefore, that the degree of sophistication of a given area will help to determine what is available and what is permissible, and thereby introduces a double standard of behavior which is unconsciously accepted by the great majority of the population who, in any case, appear to expect the big city to be wicked and to include more than its share of crime and corruption.

Intellectual freedom covers such a wide area that it is somewhat astonishing to find so large a proportion intimately associated with printed matter. While a man may make many outrageous statements in the comparative safety of his own home or in his restricted circle of acquaintances, his publication of the same statements in printed form may bring heavy punishment on his own head and on the heads of those who have aided him (by printing, distribution, etc.) in the publication of his views. There is, of course, much justice in this, for it is clear that effective control over the right distribution of printed material is impossible, and that no one can insure that an item, once published, may not fall into the hands of people for whom it was not intended. As the Working Party convened by the Chairman of the Arts Council of Great Britain to consider the obscenity laws stated in their 1969 report: "We recognize, however, that it is reasonable to protect individuals who may be affronted by offensive display or behavior in public places."¹ At the same time they recommended that the Obscene Publications Acts of 1959 and 1964 should be repealed for a trial period of five years.

Thus Sweden's sex shops are unobtrusive, and the kiosks of Denmark which were so noticeable in 1968, were far less obvious in the following year. Again, in the Federal Republic of Germany a law concerning the dissemination of writings endangering young people has been in operation for many years.² An official center scrutinizes literary production in West Germany and recommends, on the advice of competent authorities, whether or not individual works should be placed on a list indicating that they infringe the bounds of reasonable treatment of such subjects as morals, crime, race hatred, glorification of war, etc. Should they be so indicated, the consequences for both authors and publishers concerned could be considerable.

In Western Europe the public attitudes to questions of obscenity and pornography remain confused. Thus the French Ministry of the Interior has lifted the ban on Henry Miller's *Sexus* for people over the

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age of eighteen. Nevertheless, a group of French publishers was still protesting against other examples of book banning in 1969. And in Belgium, the tendency recently has been for the police to enforce existing censorship laws more vigorously than hitherto. But the Danes continue to show the way toward an adult attitude on these thorny issues: in September 1968, H. H. Brydensholt, of the Danish Ministry of Justice, pointed out that the demand for written pornography increased immediately after the legalization of its distribution—and then fell off sharply. He therefore felt that if pictorial obscenity were similarly legalized, the same would happen. But the showing of obscene motion pictures should be restricted to people over the age of sixteen.

A recorded analysis of erotic publications issued in Denmark shows that the Danes rely heavily on English-language sources.³ For example, two series begun in 1968 include translations of the following:

Sex i Vor Tid

1. Benjamin Morse. *The Lesbian*
2. Benjamin Morse. *The Sexual Revolution*
3. L. T. Woodward. *Sadism*
4. L. T. Woodward. *Sex and the Divorced Woman*
5. Bryan Magee. *One in Twenty*
6. Benjamin Morse. *The Sexual Deviate*

Sex-Bøgerne

1. Peter Jason. *Unfaithful*
2. Ace Etler. *Virgin Territory*
3. Peter Jason. *Wayward*
4. Robert Desmond. *Professional Charmer*
5. Winifred Drake. *Tender was my Flesh*
6. Angela Pearson. *The Whipping-Post*

No more titles have been issued in the first series, but the second has now reached over thirty titles and continues to rely on English-language sources. The Porno-Serien casts its net wider and includes some of the native product, but the mixture is still the same—whips and governesses, slaves and cruel countesses—in a list of titles that now exceeds fifty.

The problem of plays and motion pictures is in fact closely connected with that of printed material, and it is interesting to examine what Western Europe has been doing about the former in recent times. Thus Irish Catholic priests are now allowed—for the first time

in one hundred years—to attend professional stage productions in Ireland. But almost at the same time, Italy's Catholic Film Board banned all Catholics from seeing Pasolini's *Teorema*. And in France, all those under eighteen were forbidden to see such films as *Bonnie and Clyde*, *Benjamin*, etc. In Scotland *Ulysses* (the film) was banned in eight towns. This film was also banned in Ireland, even though the book is freely available there. Although there is no pre-censorship of films in Belgium—except for a commission which decides what films should not be seen by people under sixteen—the Brussels police confiscated the Swedish film *I am Curious (Yellow)*. *Rosemary's Baby* suffered a fifteen-second cut in Britain. And in Rome some scenes in *Galileo* of the astronomer being burnt at the stake were censored on the grounds that they were “too violent.” In any case, this film is banned in Italy to anyone under eighteen.

The Greek system appears to be one of the best balanced methods of dealing with a complicated situation: scenes of love and passion are permitted in films, because they are considered to be showing natural emotions. On the other hand, minors are banned from seeing films evoking violence and terror, and there are heavy punishments for the cinema managers, parents, and escorts concerned in any infringement of this law. Nevertheless, the same country has been responsible for the banning of Melina Mercouri's records, because they are critical of the Greek régime, and Greece's stormy history of press censorship in recent years is well known to the world at large.

In principle Britain has at last abolished stage censorship after at least three hundred years of fighting between the Lord Chancellor and the public. But, as in many other countries, the struggle over stage representations has not been confined to questions of obscenity. Political and religious issues have frequently caused controversy. Thus the French Ministry of Culture ordered the state-subsidized Théâtre National Populaire to stop the production of a play which attacked General Franco. In several countries the indignant demands for the suppression of Rolf Hochhuth's *Soldiers* shows that, whatever the law, there will always be attempts to control the more extreme or partisan performances on the stage, and—as in the case of obscenity—the instigators of such action are convinced they act from the best of motives, which they would probably interpret as “in the public interest.”

Political censorship is not always effective. In most European countries the press sooner or later oversteps the mark and then there is

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an attempt to prevent a particular issue of a journal or newspaper from reaching the bookstalls. *L'Express* in France, and *Der Spiegel** in Germany are only two in a long list of periodicals that have occasionally fallen foul of the authorities. Attempts to suppress issues of journals are, however, difficult to make 100 percent effective. For example, in the case of one journal which, several years ago, published a portrait on its front page which was subsequently withdrawn, most copies reached the public with half the front page left blank. What had been overlooked, however, was the custom of putting copies for readers in a neighboring country on the overnight train, and these of course included the forbidden photograph. Though throughout Scandinavia there is usually complete freedom of religious and political expression, the Danish authorities in late 1969 seized two left-wing periodicals, arrested seven young activists, and accused a wartime resistance leader (who is now an editor of a Copenhagen newspaper) of publishing secret military information. The latest issue of *Vietnam Solidarity* and the matrix of a forthcoming issue of the left-wing fortnightly magazine *Politisk Revy* were also seized by the police. In Britain, an independent television station's recorded interview with the commander-in-chief of NATO's allied forces in Northern Europe became the subject of controversy about the same time that the television company concerned was asked to destroy the film on security grounds. This, some felt, was a red herring used to conceal a move to suppress a document that presented NATO's real position in the world rather too frankly.

The extent to which control of what the public sees on television may be thought necessary was illustrated in an address in 1969 to the Royal Television Society by Lord Aylestone, Chairman of the Independent Television Authority. Lord Aylestone pointed out that a conscious choice was made by people using theaters, cinemas, or libraries, but that this was not completely true for television. Moreover, television was essentially a reporting and dramatic medium, both aspects being always about the unusual so that "some people fear that it is the very quantity of television, the constant restatement of the abnormal, that presents its greatest problem and its greatest danger." Thus there was an element of common sense in the view that if they went on saying that all teenagers were hippies and sexually promiscuous, then some might think that such behavior was socially acceptable. But it was just not common sense to suggest that the violence in society would be measurably decreased if everyone gave up

telling on television the sort of tales that have been told since *Beowulf*, and independent television was helping to turn away from violence by dealing not with violent crime itself but with its solution. Thus, compared with its sister arts, television treats sex and violence in a restrained way. In this connection it is interesting to see that the Pope has proposed to the General Assembly of Italian Roman Catholic Journalists that there should be a code of behavior for newspaper editors and publishers which would reduce the amount of news about crime reported in the world's press.

An unusual sideline of the question under discussion is the problem of the invasion of people's privacy. Questions were asked in the British Parliament in 1969 concerning the unsolicited circulation by a provincial publisher of leaflets advertising a book. The Director of Public Prosecutions had ruled that the circular did not offer the Obscene Publications Act or any other legislation. A member of Parliament pointed out that the leaflet in question had caused offense and embarrassment to many of his constituents, particularly elderly people who did not "share the same degree of sophistication on worldly matters as the Director of Public Prosecutions." It seems therefore that, the British, like North Americans, must resign themselves to having their mail boxes increasingly include material which they have not requested.

In 1966, Cardinal Alfredo Ottaviani, head of the Congregation for the Doctrine of the Faith, declared there would be no more editions of the *Index Librorum Prohibitorum* (last issued in 1948) and that, as such, it remains an historical document. The Catholic Church⁵ still claims, however, the authority to prohibit a book when it constitutes a general danger to the faith or morals of Catholics. The extent to which such a policy can lead a country is illustrated in North Brabant⁶ where the number of Catholics is higher than elsewhere in the Netherlands. Breda is the town with the largest non-Catholic minority in that province, and "we [therefore] get the strange situation of four separate library systems centred on the city. There is the general public library . . . ; then there is the Roman Catholic library for the city; thirdly there is the general county library; and finally, the Roman Catholic county library." Then there is the Catholic Library Association in Germany which issues a printed catalog of books in which some items are marked as not suitable for the general public. This paternalistic approach to library administration is, of course, not confined to any one country or faith, but it can earn bitter resentment, particularly from the younger readers in the community.

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The trend in Western Europe appears headed toward complete intellectual freedom because the opportunities for sidestepping any controls and the ability to compare first hand any inequalities of treatment make any attempts at a stricter regime not only absurd but also impossible to maintain consistently. The leader in the field—despite recent Danish moves—has for many years been France, the very country that in the days of Bayle and Voltaire forced some of its best writers and thinkers to live in exile. It is France that has permitted the publication of Joyce and Henry Miller in English, and of so many Russian, Spanish, and German works; that has allowed the establishment of so many émigré societies; and that has maintained the free expression of the film. Paris has proved a Mecca for the avant-garde of Asia, Africa, the Americas and from the more repressive governments of Europe. In doing so it has performed an extra function—that of bringing together creative personalities of very divergent backgrounds, and has thus facilitated the international flow and exchange of ideas, just as The Hague and Amsterdam did at the turn of the seventeenth century. It is curious to think that only the establishment of a United States of Europe could produce an administration strong enough to reduce the present state of intellectual freedom in Western Europe, but the maturity of the nations concerned is more likely to feel in any case that good taste and tolerance are the best guides to action in these matters.

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Trends Abroad: Australia

JEAN P. WHYTE

AUSTRALIA'S FIRST SETTLERS arrived on January 26, 1788. Unlike the first American settlers they were not seeking religious or temporal freedom, but slavery. These first unwilling settlers were convicts deported from Great Britain and their keepers. In the mother colony of New South Wales the early governors ruled, and the first newspaper, the *Sydney Gazette*, which began publication in 1803, was regularly censored by an official censor. In fact perhaps Australia's greatest governor, Lachlan Macquarie, went so far as to insist that even the poetry published in the *Gazette* should be for patriotism, marriage, the church, and morality. "Macquarie, with all his ten thousand qualifications, was too much in love with his own opinion, to have allowed a FREE PRESS."¹

To try to state whether intellectual freedom exists in Australia today, and if so to what extent, is a task which increases in difficulty as the evidence is gathered. Today Australia is often criticized as being a conformist society, a hedonistic society biased against the intellectual. There is abroad in the community an attitude that can be summed up in these words: "I hate intellectuals, they always cause trouble by trying to alter things." The average Australian tends not to recognize irony and is very annoyed by satire. He lives in an affluent society, constantly cheered by discoveries of mineral wealth, and in a climate that allows for long summer days of surfing and lying in the sun. Occasionally his euphoria is broken by reports of poverty in Australian cities, or of political unrest in New Guinea, and the nation's participation in the Vietnam War probably worries him most of all.

Australia is a federation, and intellectual freedom is affected by both federal and state legislation. Each state has legislation which governs the registration of printing presses or newspapers.² These

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laws vary from state to state, but in general are designed to identify the printer of newspapers and books for civil and criminal proceedings, for defanation, for obscene publication, and so on.

All the Australian states have legislation to provide for free public libraries, but not all of the population yet have access to these libraries. In each state the state library is the largest library for reference that is open to the public at large. In some states (notably Western Australia and Tasmania) there is a network of free public libraries and they are largely controlled by a central authority for the state. In the more populous states (e.g., New South Wales and Victoria), the provision for free public libraries is much more a matter for the local government authority. In every state the state government supports the free libraries by providing a subsidy to the local authorities either in the form of money or services or both.

There are cooperative schemes among the free libraries, and many university and special libraries act as "outlier" libraries for the local public libraries. The university and state libraries are linked to the National Union Catalog and to each other by teleprinter, and there is a great deal of interlibrary lending throughout the country. While the university libraries tend to concentrate on serving their own demanding public, they hold a very large proportion of the nation's resources and some of them, like the University of Sydney, are open to everyone who wishes to read in the building.

Every now and then a local library committee decides to take a hand in the book selection policies of the librarian, and of course this usually means that the committee tries to withdraw a book from the shelves. Resistance to such actions has increased with the growing self-consciousness of the library profession. State library boards and the Library Association of Australia have opposed such actions not only in the *Australian Library Journal*, but, more effectively perhaps, in the columns of the daily press. Local pressure led one library to ban James Jones's novel *The Thin Red Line* and another announced that it would remove from its shelves any book that had ever been banned by the customs department. Since this would have resulted in the proscribing of many of the most important publications of this century, it is fortunate that the resulting outcry from the Library Board of New South Wales and the Library Association of Australia persuaded the council to drop the idea.

Each state has the power to prohibit the sale or distribution of printed material. In general this power is embodied in Police Acts.

In South Australia, for example, a person who "offers for sale, or attempts to dispose of, any obscene book, print, picture, drawing or representation" may be deemed to be "a rogue and vagabond . . . and shall be liable to imprisonment for any period not exceeding six months."³

While there have been few prosecutions in that state, the South Australian courts are responsible for perhaps the most famous of all the Australian attempts to suppress publication. This prosecution is known as the *Ern Malley* case. The police took action against Max Harris, the publisher of *Angry Penguins*, a literary magazine, for publishing an obscene magazine. The autumn 1944 issue of *Angry Penguins* contained poems by Ern Malley and the police claimed these were obscene. In fact Ern Malley had been invented by two young poets, Harold Stewart and James McAuley. They had deliberately written the poems in a parody of the style of Dylan Thomas, George Barker, and Henry Treece, in order to ridicule Max Harris who had endorsed the works of these poets. The Ern Malley poems written by the two poets had awkward rhymes, absurd syntax, and no logical and developed themes. Max Harris (and the English critic Herbert Read) thought that Ern Malley was a genius. Unfortunately Detective Vogelsang of the South Australian police force read the poems, suspected obscenity, and Harris was charged in the Adelaide police court. For an account of this very entertaining trial which featured Detective Vogelsang as the bone-headed policeman protecting the public from such obscenities as "I have remembered the chiasmus of your naked breasts and loins," the reader is referred to *Ern Malley's Poems* with an introduction by Max Harris.⁴ Max Harris was found guilty of publishing an "indecent advertisement" and fined five pounds.

Among other prosecutions of books was the police action against Angus & Robertson for publishing the novel *We were the Rats* by Lawson Glassop. The magistrate (and later the judge who heard the appeal) found the book to be obscene. Robert Close, author of *Love Me Sailor*, was fined 100 pounds, and sentenced to three months gaol (reduced on appeal to a fifty pound fine) because his novel was a gross assault on the morals of the community. *The Trial of Lady Chatterley* was banned by the customs department, and was subsequently published in Australia to defeat the ban. One state government nearly prosecuted two booksellers for selling it, but decided to be content with making the booksellers record the name and address of all purchasers not of "mature years," and with banning special

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publicity. It is probable that *Portnoy's Complaint*, currently banned by customs, will also be published in Australia. In Victoria a man was fined twenty-five pounds in 1965 for distributing an obscene article. He had lent Henry Miller's *Tropic of Capricorn* to a friend.

In November 1967, the commonwealth government and the governments of the six states signed an agreement "in relation to The Administration of Laws relating to Blasphemous, Indecent or Obscene Literature." This agreement was made "so that there will not be inconsistency in the administration of laws relating to blasphemous, indecent or obscene literature."⁵

Under this agreement a national literature board of review was set up. This board has nine members and

Its membership should be broadly based as to qualifications and background and should be spread so that there is a resident of each state on the board. . . . The board shall report on books submitted to it for examination, and this report shall state whether the book is or is not suitable for distribution in Australia. . . . (A book is not suitable for distribution in Australia if it is

- a) blasphemous, indecent or obscene
- b) unduly emphasizes matters of sex, horror, violence, or crime, or
- c) is likely to encourage depravity.)⁶

If the board releases a book (and it does release most of them) the governments intend to let it have "free importation into, and publication and distribution within Australia." The final responsibility for the book is, however, retained by the relevant state or commonwealth minister. Before authorizing administrative or judicial proceedings against a book, a minister must submit it to the board. Others who may submit books to the board (through the appropriate minister) are the author, publisher, or distributor of a book.

Most books read in Australia enter the country as imports, and it is, therefore, not surprising that the Secretariat to the National Literature Board of Review is in the department of customs and excise. In fact most of the censorship in Australia has been exercised by the department. This department prohibits quantities of literature that have neither literary nor artistic merit. Books which have claim to one or both of these two qualities are first referred to the board of review.

While the customs department has prohibited a great number of literary works from entering Australia for general sale or distribution, there is an escape clause in the customs regulations which allows

academics and research workers to have access to most of these books. In 1963-64 for example, thirty-six works dealing with medical, psychiatric, and sociological works and five works of fiction, were released to individuals upon special application. Most university libraries hold copies of banned books which have been released to them upon the application of the vice-chancellor of the university and on condition that a book can only be read by a researcher who has the permission of the head of his department to risk contamination. This system is a difficult one for believers in freedom to accept, and yet perhaps "a copy" is better than "no copy." It is a further step along the path that allows the expensive hard cover copy in, but bans the cheap paperback. Perhaps the most pernicious result of the system is the fact that it tends to discourage those who could be expected to lead the protest against censorship on the "I'm-all-right-Jack" principle.

The existence of political censorship is not easy to demonstrate, but it is certain that there are ways in which the governments of the states and the commonwealth manage to restrict some political expression. Political censorship began in earnest during the 1914-18 war and hundreds of books and pamphlets were prohibited. The police even seized a copy of the Queensland Parliamentary Debates in which the premier of the state had made a speech attacking conscription. The habit of political censorship remained and by 1929, over 200 seditious pamphlets had been prohibited.⁷ The list included the works of Trotsky, Stalin, and Lenin, the *Labour Monthly*, and *The Communist Manifesto*.

Political censorship was so bad in the 1930s that the Victorian Book Censorship Abolition League was formed. The league held debates against censorship and in 1937 succeeded in getting the political censorship liberalized. With the outbreak of World War II (1939-45), the department of information and censorship banned a number of Communist newspapers and then proceeded to censor the daily newspapers. The newspapers published blank spaces to represent censored articles and the commonwealth police seized the papers. The commonwealth prosecuted the morning newspapers, and the newspapers took steps to challenge the validity of the censorship in the High Court of Australia. The challenge was never issued because the government agreed to new censorship regulations, and thus the newspapers won.⁸ Political censorship was discredited and was not brought back after the war. Australia does have a D-Notice system similar to that operating in Great Britain.⁹ Under this system a committee (whose members

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represent the press, radio, television, the armed services, and the defense department) may decide that the security of the country could be threatened by the publication of a certain item of information, and will therefore request that the mass media refrain from publication of that information. The system has no teeth and the committee does not issue orders, merely requests.¹⁰

Publications from some countries may not enter Australia because there is an embargo on trade with that country. Publications from North Vietnam and Southern Rhodesia currently fall into this category. There are fairly rigid rules governing political telecasts and broadcasts. These have been laid down in an attempt to give each major political party an equal share of the mass media, and they may certainly be regarded as restrictions of freedom.¹¹

Restrictions on public access to official records may be a greater impediment to the achievement of intellectual freedom than the haphazard seizing of books by the department of customs. In this field as in all others, Australian law is close to English law, and therefore more restrictive than U.S. law. The history of the British Official Secrets Act is discussed and analysed by David Williams in *Not in the Public Interest*.¹² Similar restrictions and attitudes are to be found in Australia. The problems inherent in Australian attitudes and legislation are discussed by Enid Campbell in the *Australian Law Journal*.¹³ She points out that the legislation for the preservation of public records in most Australian states prevents access to public archives until the material is fifty years old, and that such restrictions effectively prevent much social and political research.

The Library Association of Australia has had an official policy on censorship since 1964 when the council of the Association approved the Statement of Principles on Freedom to Read.¹⁴ The approval of the statement was the end of a campaign to persuade the librarians of Australia to take a stand against censorship which began with the presidential address to the Association delivered by W. G. K. Duncan in 1961. The address was called "A Librarian's First Loyalty," and Duncan, who was the professor of history and political science at the University of Adelaide at the time, spoke in no uncertain terms: "... a librarian is not only entitled, but is in duty bound, to disagree both from the government of the day and from a majority in the community whenever this disagreement 'flows from his vocation.' His vocation is to promote and foster the free flow of information and ideas throughout his community."¹⁵ The speaker drew the attention of the

audience to the ALA Committee on Intellectual Freedom and its Statement of the Principles on Freedom to Read.

The librarian's attitude toward censorship was subsequently discussed in the Association's branches and council, and it seemed to those librarians who agreed with the 1961 president that their professional association would never take a firm stand. Finally in the middle of 1964, the editor of the *Australian Library Journal* decided to devote an issue to censorship, and the June, 1964, *Journal* was published.¹⁶ It contained an editorial urging that the Association state a policy against censorship, an article on "Censorship" by J. J. Bray (now chief justice of South Australia) and another entitled "The Concupiscence of the Oppressor" by Frederick May of the Italian department at the University of Sydney. The publication of this issue did not go unremarked among the members of the Association. Some were shocked by the many quotations from the banned books that appeared in May's article, and some were clearly opposed to an Association policy against censorship, but if the correspondence pages of the *Journal* and subsequent events can be taken as a sign, it is clear that most librarians were opposed to censorship.

In September, 1964, the Statement of Principles on Freedom to Read duly endorsed by the Library Association of Australia as official policy, was published.¹⁷ Since then the Association has had a committee on censorship which has advised the council to protest against the banning of specific books, and which has issued statements in the face of local pressures to censor.

During 1969 censorship was frequently in the news in Australia. With the arrival of the permissive stage in Australia there were several instances of censorship of the live theatre. Actors have even been prosecuted and found guilty of using indecent language in a public place because their scripts contained the words. There also seems to be a growing tendency to censor even the films that are imported for showing to film festival audiences. Australian film censorship has always been restrictive (*Ulysses* cannot be screened in Australia). Films are cut to suit an audience of children, perhaps because Australia has no laws that force cinemas to keep children out of the theatre when "adults only" films are showing.

There are signs of increasing restrictions on intellectual freedom in Australia, signs that range from the trivial to the serious. Of the former the sudden outbreak of police action to seize drawings of Aubrey Beardsley and post cards of Michelangelo's David are good

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examples. Of the latter and more disturbing is the refusal of the state government of South Australia to endorse a recommendation from the chief justice that a barrister be appointed a Queens Counsel on the grounds that the barrister in question is a member of the Communist Party of Australia.

On June 11, 1970 the Australian Minister for Customs, Donald Chipp, made a significant statement on the government's attitude toward censorship. This statement reveals clearly that the man who is responsible for the administration of the censorship laws and regulations has a far more permissive attitude than any previous holder of the office and indeed than the community at large. In fact he put the demand and the decision to censor firmly on the shoulders of the community by stating that censorship of all kinds should be open to public scrutiny and that

the amount of censorship should be as little as possible, within the limits set by community standards; and in the ultimate all members of the community, especially parents have the prime responsibility in censorship; the community cannot sit back and expect the government to protect it.¹⁸

The statement and the debate that followed are essential reading for those interested in intellectual freedom in Australia.

The constant complaints from politicians and from the public about the programs on current affairs presented by the national television stations confirm the fact that Australians are not ready to allow freedom of discussion. Certainly there is a need for vigilance on the part of the Australian Council for Civil Liberties and professionally committed groups like the Library Association of Australia, lest intellectual freedom be diminished in the land.

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...and New Zealand

GEOFFREY T. ALLEY

ALTHOUGH WE MAY THINK we know whether a society is free or not, the amount of intellectual freedom present in it is not subject to measurement. Three guidelines which should be remembered in any general discussion of intellectual freedom can be postulated. First, just as no person is completely free in the material and physical senses, so is his intellectual freedom a relative one, although the society he lives in gets immunity from the commoner forms of inhibition of freedom such as censorship, restrictions on speech or action. De Tocqueville said it well: "Providence has not created mankind entirely independent or entirely free. It is true that around every man a fatal circle is traced, beyond which he cannot pass; but within the wide verge of that circle he is powerful and free."¹

Second, it is only by individual variation, individual freedom and individual growth that a society achieves growth and freedom. We are inclined to overlook this because the measures we insist upon for freedom take the form of actions agreed upon by the society as a whole. But society should provide for the widest possible range of individual differences in growth patterns, so as to enable the individual to develop and thus enrich society itself. The encouragement of a wide-ranging growth has two aspects, one of removing hindrances, the other of providing generously the various kinds of intellectual food, through schooling, through libraries, and through opportunities for further education after formal schooling has ended.

Third, attempts to cut back or prune individual freedom of thought or expression have in an impressive number of cases resulted sooner or later in a gain in intellectual freedom, sometimes of a spectacular kind. John Stuart Mill has challenged the universality of this and has cited depressing examples of apparently permanent suppression of

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liberty in the wake of persecution.² Enough examples of restrictions and suppressions being followed by a greater resurgence of freedom exists however, to warrant holding this as an important element in the discussion.

New Zealand, like Australia, is a young country in terms of its settlement by Europeans. Two hundred years ago Captain James Cook made his first landfall on the New Zealand coast near Gisborne in the North Island. Nearly another hundred years were to pass before systematic, organized settlement took place. The country remained for many years, until well into the twentieth century, an isolated, remote but loyal part of an empire that was to crumble in the face of two destructive wars. A country far from Europe, a country with the widest of open spaces, a country with few people, able to begin to create its own institutions without prejudice—how attractive these features seem in retrospect to those concerned with a beneficial climate for freedom. Yet in 1904, André Siegfried, a perceptive writer about New Zealand, could see two counterbalancing trends in the national character. He wrote: "At times he becomes imaginative, expansive, eager for reforms and new ideas, recking little of vain respect for ancient prejudices. At times, on the other hand, he shows himself, to our great astonishment, a lover of ancient forms and established hierarchies, more than half a snob, and, in his way, almost a conservative."³

In one sense Siegfried has done no more than to say that he thought New Zealanders to be human beings. It is indisputable that all persons balance two drives or urges in their make-up, the urge towards growth or towards new forms, and the urge to repeat patterns previously established by parents or by the race. More significant is Siegfried's surprise that in a country so new, so relatively small, so far from older communities, there should still persist such a strong regard for previously established forms of conduct and institutional development.

Comparatively little was to disturb the insular peace of New Zealand until 1914. The first of the great wars, the economic depression of the early thirties, and the war of 1939-45, each brought critical shocks to the country. The wars brought severe loss of life, but economic effects were marked in all three cases. Repercussions of a social and intellectual kind were likewise widespread. The wartime movement abroad of a significant segment of the younger males in the country followed by the return of those who survived could not but in due time affect attitudes to older beliefs and practices. The waves of the world de-

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pression reached New Zealand in the first years of the 1930s and brought suffering, bitterness, and doubt about the values and goals of established society. The war of 1914-18 provides illustrations of how fragile the concept of intellectual freedom can become when a society acts blindly, almost instinctively, in imagined self-defense.

George von Zedlitz was a German-born, mainly English-educated, professor of modern languages at Victoria University College in Wellington. He was appointed in 1901, and before the war had established himself as an admirable holder of his position. His devotion to his students and to his academic institutions was never in doubt, but when war came his position became technically that of an enemy alien, since his father was German (although his mother was English) and his own naturalization had not been formally carried out. Following his offer to resign, the New Zealand government, through its minister of internal affairs, sought and obtained a written statement from him that he would hold no communication with the enemy nor would he be a party to giving information of any nature to that enemy. Here the matter could have rested but for the lamentable public outcry for his dismissal, a demand which was ultimately and indeed inconsistently acceded to by the government when it passed the Alien Enemy Teachers Act of 1915, an act that was expressly designed to force the Victoria College Council to dismiss von Zedlitz and to rob the country of the work and intellectual contributions of an outstanding university teacher.⁴

In the following year, on December 22, 1916, Peter Fraser, who was to become prime minister of New Zealand in 1940, was jailed. A conscription or "draft law" having been passed by Parliament, new regulations were issued under that law to curb public discussion of it. Fraser's public criticism of the measure brought him a year in jail. He emerged with enough support in a Wellington electorate to win a seat in Parliament, keeping this seat until his death over thirty years later. His later career was a notable one, and not least for his contribution as New Zealand's great minister of education. It was Fraser's decision to establish a state library service which would serve public libraries with an increasingly wide range of books and which made possible, directly or indirectly, much of the library development in New Zealand since the late 1930s. The central service Fraser inaugurated, although financed by the general government, worked in close partnership with the many local authorities and smaller library units. It made possible a broadening of understanding by many who with-

out knowing it were seeking intellectual freedom through access to books. It brought the chance to read.⁵

In times of war, hysteria and intolerance of any point of view but the official one are to some extent inevitable. It is sad to look back on the economic upheavals of the early 1930s and to note the intolerant criticism by those with established views different than their own. Victims of such intolerance in those times had very few options. Their labor was not held in high regard. Some who were not afraid to hold and to publish opinions which today seem almost orthodox were made to suffer—an editor of a leading daily newspaper and a university lecturer among them. And it is sad, also, to recall that at this apparent nadir of New Zealand's intellectual and social history the university college which fought so well but unsuccessfully in 1914-18 for a principle of intellectual and academic freedom, in 1933 was on the wrong side. The Council of Victoria University College in that year became embroiled with some of the organizations of its students about the extent to which spoken and published discussion of—among other things—sexual and religious subjects should be permitted in debating clubs and student publications. A committee of the council solemnly reported that in spite of the regrettable and erring ways of some individuals, all was under reasonable control. From the decisions and actions of that time it is clear that the independent questioning role of the university was being threatened. J. C. Beaglehole, one of New Zealand's best known scholars, in his history of the College has treated this episode with skill and sympathy. Of the committee's report he says: "It is an ignoble document but it is one the faithful historian cannot pass over."⁶

Censorship of books, periodicals, films, and other means of communication has always been, even in a disguised or minor form, a factor in the life of New Zealand society. How far it has really inhibited intellectual freedom and growth is impossible to gauge. Looking back at the formidable array of controls that, if used, could have impeded the flow of ideas, one is tempted to take a gloomy view. A factor in the situation from earliest times was that all but a tiny fragment of the books in use had to enter the country as imports. This placed the customs department in a difficult, if not an impossible, situation since the officers administering acts and regulations could not be expected to distinguish between serious and worthless literature. The improvements in public law and administrative practice which have come about in the last few years are noted below, but

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the growth of book publishing in New Zealand and the increase in the number of intelligent persons with the ability to make critical judgments in the community have changed the situation radically.

It would be as hard to meet a professional librarian in New Zealand who would defend the practice and principle of censorship as it would be to meet such a librarian in North America. It is now even possible to meet senior administrative officers of government or even elected representatives in Parliament who are intellectually convinced of the rightness of dismantling all the seemingly preposterous apparatus of censorship. Such people, however, are still in a minority and have no illusions about the political inevitability of some forms of control for some time to come.

A keypoint in the evolution towards a more liberal viewpoint was the passing of the Indecent Publications Act on October 16, 1963. The events leading to this legislation and a brief account of how it worked in practice in the first year after its passing have been ably recorded by one of its members, Stuart Perry.⁷ Perry, city librarian of Wellington, has had legal training and a long record of activity on behalf of the New Zealand Library Association in the matter of censorship. The 1963 act repealed all earlier measures although it re-enacted parts of them. Controls over importation of "horror comic" literature became a public issue in 1953-54, and Perry justly describes the unfortunate Indecent Publications Amendment Act (now repealed) of that year as a panic measure. The legislature seems to have been as unsure of the nature of the problem it imagined itself to be facing as it was unsure of the remedy to be applied. In trying to provide some kind of safeguard against what was described as a menacing flood of cheap pornography, the 1954 act gathered in all forms of printed matter, making their distribution subject to quite vexatious procedures. These procedures were, for a work-a-day bookseller or distributor, almost impossibly difficult to comply with. It was not surprising that they were substantially modified a few years later.

The 1963 act was lengthily discussed in Parliament.⁸ A study of the debate shows a wide difference in attitudes of members, from the "we must protect our young minds" school to the more realistic and informed individuals anxious to preserve individual freedoms. One of the strengths of the 1963 act was the amount of study that had been put into it, and the way in which groups of informed people had a chance to influence its drafting. The New Zealand Library Association had a representative on the committee set up to advise the

minister, and two other librarians were there in other representative capacities. The New Zealand Council for Civil Liberties, an important body, had officially or not, a key person on the committee. This was W. J. Scott, who in his writing and in his actions has been a tireless and valiant fighter and worker for intellectual freedom.

The main feature of the new act was the establishment of a tribunal which had the power to declare a work indecent or not, and the power to prescribe the conditions under which a work might be made publicly available. The tribunal has five members; its chairman must be a barrister or solicitor of the Supreme Court with not less than seven years practice. Two of its other four members must have special qualifications in the field of literature or education. In spite of the strictures upon it by the outstanding literary critic, E. H. McCormick, an ex-librarian, the tribunal has performed ably and well, so far. McCormick, as quoted by Perry, commented about the membership of the tribunal and the first book which was to be considered by it, James Baldwin's *Another Country*, by saying: "a quintet of old and ageing persons, most of them undistinguished even by the standards of this mediocre little community, is to sit in judgment on one of the heroic figures of our time."⁹ The tribunal appears to have had little difficulty in finding that *Another Country* is not indecent and it made no order restricting its distribution. As far as can be seen, it did not sit in judgment on the author.

Later decisions by the tribunal bore out early hopes that here for the first time was a means whereby the almost necessary evil of censorship could be made bearable. What clearly appeared by the end of three years of its work was that, broadly, only those works "utterly without merit," the phrase that comes from the Supreme Court of the USA—could be expected to receive a negative reaction from the New Zealand tribunal. An English barrister, C. R. Hewitt, who writes under the pseudonym of C. H. Rolph, and who had a long career in this prickly field, visited New Zealand recently. He has been on record since then as being impressed by what he saw of the work of the tribunal: "I believe there are lessons to be learned from New Zealand's interesting experiment."¹⁰ On the individuals composing it, he commented, "In Wellington I had the pleasure of meeting some of them. . . . I'd like to record that if Lord Goodman's plan ever comes to fruition I hope we get a tribunal of at least the same calibre."¹¹ The reference to Lord Goodman concerns his publicly stated hope that prosecutions in Britain should be confined to books that had "failed

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to commend themselves to a committee of literate persons specially selected for the purpose.”¹⁰

The efforts of liberal-minded persons in the Council for Civil Liberties, the Library Association, the Department of Justice, and members of the legislature, have thus had some result. Where previously New Zealand had a proliferation of small powers at local, provincial and central levels and of officials dealing savagely with serious works of literature, this at least has now been made unlikely if not impossible. Whether New Zealand will be able to follow Denmark in scrapping censorship of books is doubtful. Whether the cause of intellectual freedom has really been furthered by a greater freedom from restraints on published literature is also too difficult a question to be answered now.

The skeptic in such matters studying the still existing hindrances to the free circulation of films, books, and media of communication of all kinds would note three things. He would in fairness agree that the past two or three decades have witnessed a growth of liberal trends in public opinion and official practice. He would possibly reserve some doubt as to whether the matters so fully and sometimes so heatedly discussed in public have originated in an intellectual as opposed to a political, social, or aesthetic conscience. He would share with Jacques Barzun a reservation on this point: “The three great forces of mind and will—Art, Science and Philanthropy—have, it is clear, become enemies of Intellect not of set purpose, not by conspiracy, but as a result of their haphazard assimilation within the House of Intellect itself. The intellectual class, which ought always to remain independent, even of Intellect, has been captivated by art, overawed by science, and seduced by philanthropy.”¹² Finally, if he were a librarian, he would want to insure that the range of books freely available for public use by people of all ages was as wide and deep as it could possibly be made.

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Trends Abroad: South Africa

DOUGLAS H. VARLEY

CIVIL LIBERTY, of which intellectual freedom is a part, has been defined as the possession by the individual, within a political community, of those natural rights essential to the free development of personality, under the guarantee of law—that is, accepted legal rules applying equally to all men, left in the hands of the ordinary courts of law.¹ In many countries intrusions have been made in the absolute rule of law. In South Africa the position is that while the rule of law is still the basic principle, the exceptions made by statute are so far reaching and so numerous that it can no longer be said to be, in practice, the prevailing element in the nation's life. There is in South Africa today a complex structure of laws and regulations which in the name of internal security impose a variety of restrictions on individual liberties, including in the present context the freedom to read literary material judged by a Publications Control Board to be "undesirable," and to publish any material that may undermine "the traditional race policy of the Republic." Since 1956 approximately 13,000 books have been banned in terms of existing legislation, including the entire works of any person banned from public meetings by any previous legislation. They include works by such authors as William Faulkner, D. H. Lawrence, John Updike, James Baldwin and LeRoi Jones, and by such South African writers as Nadine Gordimer, Peter Abrahams, Alex la Guma and Ezekiel Mphahlele. No writer in Afrikaans has yet been banned, but the threat to impose conformity upon the creative South African writer is ominously ever-present.

The successive steps by which this state of affairs has been reached will be briefly described below. Most important, if the situation is to bear any kind of analysis, is an understanding of the historical cir-

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cumstances that have brought it about. To simplify the issue and possibly to over-simplify it, the successive encroachments on civil liberties, for white as well as black, have come about through the pursuit of a policy raised to the status of a philosophy. To paraphrase the Tomlinson report, "separate development of black and white is the only means of preserving the identity of the whites in South Africa, and the 'white civilization' they have brought to Africa."² Complete realization of common interests between black and white, in this view, is unattainable: separate development of the European and Bantu communities should be striven for as the only direction in which racial conflict may possibly be eliminated and racial harmony possibly maintained. To achieve such separate development (better known by its original descriptor, *apartheid*) sacrifices are demanded of all elements in the community, and to achieve it, a new pattern has to be imposed on society. The sacrifices, as the world well knows, bear unevenly on different sections of the community; the price to be paid by the acceptance of the pattern includes the restriction of personal liberty and, therefore, for white and black alike, the loss of a measure of intellectual freedom.

We are not concerned here with the rightness or wrongness of this philosophy, which is held with varying degrees of moral fervor, or with passive acceptance, by a politically effective majority of "white" South Africans who are themselves a one-in-five minority of all South Africans. It is not even a new concept. One tends to forget that South Africa, as a unified state, is only sixty years old; before Union, there was more than a hundred years of British influence; and before that, a century and a half as a remote branch of a world-wide business concern (the Dutch East India Company) under which it was ruled through an increasingly corrupt bureaucracy, in which personal freedom was proscribed by laws and regulations emanating from a center 6,000 miles away. Travellers to the Cape at the end of the eighteenth century found no literature, no journals or newspapers, and no press. The binding factor of the small settled community was the Church, which, like the monasteries in the Dark Ages, remained the chief instrument of the education and culture that survived. Its Calvinistic influences, a rallying point in times of trouble, have survived and flourish to this day.

The coming of British rule and the progressive emancipation from it during the nineteenth century did not of themselves bring intellectual freedom or the civil liberties. They were, however, fought for

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and partially secured mainly by settlers from Britain, in parallel with the struggles for the freedom of the press in the country from which they came. At the Cape the story of this struggle against the insistence of the Governor, Lord Charles Somerset, on pre-publication censorship, has been well described both by a participant³ and by a modern librarian;⁴ the efforts of Thomas Pringle and George Greig finally brought public policy within the scope of general debate, and by 1860 local papers in the English language were common even in country towns. But in proscribing the activities of a literary and philosophical society "because it might have a tendency to produce political discussion," Somerset was laying down a precedent, in the name of colonial rule, that was to be followed more than a century later in the name of "the traditional race policy" of the state.

Somerset, however, is now remembered not only as the antagonist of the liberties of the press, but also as the founder, or as the one who was induced to found, in 1818, the South African Public Library, "to place the means of knowledge within the reach of the Youth of this remote corner of the Globe." The precursor of many subscription libraries on the Cape, this Library, through many vicissitudes, provided the place and occasion for the cultivation of intellectual freedom, admittedly by a small minority, but among these were leaders of the community, and during the nineteenth century the influence of the Library spread through and beyond the confines of the Cape. This long history of library provision, culminating in the remarkable expansion of library services throughout South Africa during the past thirty years, makes a significant background to the more somber circumstances of the modern apartheid state.

Each of the political entities that was brought together in the Union of 1910 adopted constitutions reflecting predominant attitudes to personal liberties. The constitution of the Orange Free State, which remained virtually unamended from 1854 to 1900, specifically asserted that there should be equality before the law without regard to persons, and guaranteed personal freedom and freedom of the press subject to law. The Transvaal, in the prophetic Article Nine of its constitution, declared that "the people are not prepared to allow any equality of the non-white with the white inhabitants either in Church or State." The modern history of South Africa might be characterized as the triumph of Article Nine.

Each of these colonies, too, had its own enactments dealing with the importation of indecent or obscene articles and their sale or distribu-

tion within the area concerned. These enactments were based on much earlier legislation in the United Kingdom, and were rarely brought into force in relation to the importation of literary material. At Union they were consolidated in the Customs Management Act of 1913, which prohibited the importation of "indecent or obscene or objectionable articles"; the final definition of indecent or obscene being the decision of the relevant minister. Concern for the morals of the reader was not actively expressed for another twenty years, until the same act was amended with a widening of definitions, and began to be the instrument by which subjective judgments on literary materials were exercised by the state.

The matter of censorship was in some minds, however, long before this, and two examples, not involving legislation, may be of interest in this context. A. C. G. Lloyd, for many years librarian of the South African Library in Cape Town, has described the reactions of a militant trustee of that Library, Jane Waterston, to the arrival of Arnold Bennett's *The Pretty Lady* at the Cape. After reading the Library's copy, she solemnly burned it in her yard, and proposed to the trustees that all other copies of the work be withdrawn from circulation and destroyed. The motion was rejected by one vote; Waterston resigned in a public flurry; and as a result, the local booksellers had to cable for an additional thousand copies. At the annual meeting of Johannesburg Public Library held in 1920, the union astronomer who presided, said that a complaint had been made that the books they had in circulation tended to encourage socialism (laughter). It would be very easy for administrators to drop into the position of being censors of what the subscribers should read, but the principle they followed was that if the police allowed a book to be published, they ought not to ban it. These instances of *homo legens* in a mood of moral indignation are familiar enough to librarians, and as those in authority were in both these cases also on the side of the angels, the freedom of readers to enjoy Arnold Bennett and books on socialism suffered no perceptible encroachment.

In 1931, an Entertainments (Censorship) Act provided for the appointment of a South African Board of Censors, chiefly to censor films. Three years later the existing customs act was amended to enable the minister to consult with this board before proscribing printed matter of an objectionable nature. In 1939, the act was further amended to allow the minister, when he was satisfied that such matter was one of a series, to publish the name of the publication in two consecutive

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issues of the *Government Gazette*, upon which every issue would thereafter be deemed indecent, obscene or objectionable. Further, it was an offense to sell, to offer or keep for sale, or distribute or exhibit any issue of any publication in respect of which a notice had been issued. Two points should be noted: 1) the government was now empowered to ban in advance, and 2) the act referred to publications in a series, but almost imperceptibly it came to refer to individual books. Admittedly, the works that were now named in the *Government Gazette* were in general not to be described as literature, but the door to intervention had been opened, and has been opening wider ever since.

In 1944, the customs act was consolidated and amended once again; but action was still taken through reference to the Board of (Film) Censors, and subsequent notification in the *Gazette*, which from this point on became compulsory, if not compulsive, reading for all librarians. Eventually an enterprising publisher undertook to provide a loose-leaf service, consolidating the lists of proscribed books, and as the numbers have mounted, one of the national libraries, the State Library, Pretoria, has offered to the librarians of the world a card service with the same intent. These bannings, it should be noted, concerned material imported from other countries, largely from Western Europe and America, which still constitute the bulk of a South African bookseller's wares. So far as internally produced publications were concerned, various enactments discouraged the posting of indecent or obscene matter (Post Office Act of 1911 as amended in 1958) or, as in the case of the Obscene Publications Act, 1892, of the Cape, had completely taken over Lord Campbell's (British) Act of 1857, giving magistrates the power to destroy offensive material. There were few *causes célèbres*, and it was not until the 1950s that the witch-hunting really began. It should be noted, however, that none of the enactments so far described were the work of the nationalist government that came into power in 1948, and has remained in power ever since. Nor indeed were the many other encroachments already being made into personal liberties by a network of legislation primarily affecting the African population, but eventually and inevitably affecting the whole community of South Africans.

When "watching the *Gazette*" first became a librarian's occupational "must," there was some doubt whether the owners of books so proscribed who had acquired them at an earlier date were liable to penalties under the existing legislation. This was in fact not so, but

this writer well remembers a case in which he himself was involved. A certain Colonel X complained that a French book in the library contained passages which in his opinion were indecent and obscene. The book was examined and found not to justify these strictures. Colonel X thereupon removed the book from the library and placed it in the hands of the C.I.D., who forwarded it in the course of duty to Pretoria "for the decision of the Minister," in terms of sub-section 2 of section 21 of the Customs Act, 1944. The trustees of the library took up the matter with some vigor, addressing a strong note of protest to the secretary for the interior, and asking on what authority the police and the department had acted in respect of a book that had been imported in 1926 and circulated since then without complaint. After a decent interval for reading and reflection, the secretary for the interior returned the book to the library, apologizing for the delay, and stating that the minister had decided that the publication should not be regarded as objectionable, particularly in view of the fact that it had been in the library since 1926. In those days protests were sometimes effective.

It would be tedious to describe every subsequent enactment affecting the individual's freedom to read and write what he pleased, subject to the progressively eroding rule of law. It is perhaps sufficient at this point to remark that all such legislation hitherto had been directed at matter considered to be offensive to public decency and morals, and that this offensiveness did not extend, in general, to matter which conflicted politically with the tenets of the government in power. With the arrival of the nationalist government in 1948, however, and the pursuit of policies involving the imposition of the new apartheid pattern, provision came to be made in a series of enactments for the suppression of material of a politically deviant nature. Thus the Suppression of Communism Act of 1950, as amended in 1962 to 1965, provided that if the governor-general were satisfied that any periodical or other publication served *inter alia* as a means of expressing views or conveying information the publication of which was calculated to further the achievement of any of the objectives of Communism, he might without notice to any person concerned, by proclamation in the *Gazette*, prohibit the printing, publication or dissemination of such publication, and increasingly severe penalties were visited upon the persons concerned. The term "Communism" was no doubt thought to be self-explanatory, but could come to mean "any opinion of which the government disapproves." The writer again

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recalls a visit he received during the 1950s from two members of the special police. They had been detailed to examine the library's holdings on "Communism." They were led to the subject catalog, which in those days contained perhaps five hundred titles under the general heading of "Communism." "But," said the senior special policeman, "which of these are for Communism, and which are against?" This, it was explained to him, he would have to find out for himself, and when, a week later, surrounded by piles of dialectic, he was asked how matters were progressing, looks belied words; the next day, his seat was empty.

We now come to a strange period in the recent history of censorship in South Africa. In 1954, a member of the Union House of Assembly raised in Parliament the case of an article published in a popular Afrikaans magazine to which he took exception. Action against the publishers failed, but the government subsequently appointed a commission "to enquire into the evil of indecent, offensive or harmful literature" under the chairmanship of G. Cronjé, head of the department of sociology at the University of Pretoria. The commission took its duties with great seriousness and solemnity; questionnaires were issued, attempts were made to define the hitherto undefinable in the way of indecency, offensiveness and harmfulness in printed form. The commission's report was published in September 1957.⁵ In the words of Ellison Kahn, Professor of Law at Witwatersrand University, whose article in the *South African Law Journal*, August 1966⁶ constitutes by far the best account of this matter: "seldom can there have been such an admixture of scientific investigation and uncritical acceptance of unproved contentions." Basing its thesis upon Fredric Wertham's *Seduction of the Innocent*, the commission held with Hegel that man is unfree when acting under the influence of known erroneous ideas, and censorship therefore preserves human virtues, cultural values and democratic ideals. As Kahn goes on to remark, perhaps the American writer is correct who claimed that in the final analysis obscenity is not a crime, but a sin.

It would be wrong to give the impression that the commission took an entirely negative view of its terms of reference. The report spells out at some length the positive steps that should be taken to improve public taste in literary matters, especially through the medium of library services, and with all the means a librarian has at his disposal to exercise his skills. On the other hand, the commission's proposals for a government-appointed publications board were designed to co-

ordinate control over both imported and locally-produced matter, with a publications board of appeal, presided over by a judge. The commission also produced an involved definition of "undesirable material" which could have included almost anything under the sun. The publication of this report led to considerable public discussion, and the Council of the South African Library Association was moved to dispatch to the minister of the interior a considered memorandum on its implications. This memorandum is printed in *South African Libraries*, the Association's official journal, April 1958, and is worth noting as probably the last published statement of this professional body in defense of this aspect of the rule of law in South Africa.

After applauding the positive measures recommended by the commission for the promotion of good reading, the memorandum went on to assert that there was at present no case for additional legislation to control locally-produced material; that the commission had given too much weight to the thesis that "undesirable" reading matter necessarily leads to increased crime, and not enough to an authoritative body of opinion which was not convinced by this thesis. The council was seriously disturbed by the norms of "undesirability" proposed in section 2 of the Draft Bill which formed part of the report, saying that they "cast the net far too wide to be practical without doing grave violence to the whole cause of literature in South Africa."⁷ It believed that the approach of the commission on the basis of the Cockburn judgment of 1868 was erroneous and did not take into consideration ways in which this had since been modified in countries of the Western world. It objected to the procedure to be followed in the Draft Bill, believing that it would have a disastrous effect both in inhibiting creative writing, particularly in Afrikaans, and in driving the best writers overseas. It objected to the proposal to give to the Publications Board, an administrative body, powers in lieu of the ordinary courts of law, and to the holding of proceedings *in camera*. It submitted that the report and recommendations involved so much curtailment of freedom that it must inevitably provoke a vast measure of criticism, if not censure, from overseas. Lastly, "We are of opinion that the dangers of a system of censorship in which . . . no provision is made for appeal to the courts of law, outweigh the dangers inherent even in the circulation of 'undesirable' literature, and that the provision of a nominated Publications Appeal Board would in no way compensate for the loss of a civil right conferred by the rule of law, in this as in other civilized communities."⁸

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Brave words, which with the representations of the South African P.E.N., the protestations of Justice J. F. Marais of the Transvaal, and of a number of other interested persons and bodies, may have mitigated in some measure the proposals of the first bill (1960), which included the worst features of the Cronjé Report. It was succeeded by the Undesirable Publications Bill of 1962 (in turn referred to a select committee), finally emerging as the Publications and Entertainments Act, given its second reading in the assembly on January 31, 1963, and thereupon becoming law.

This act⁹ provides for the appointment by the government of a publications control board of not fewer than nine members, three of whom should have an "expert knowledge of art, language, literature or the administration of justice." The board, assisted by a panel of readers and reviewers, is empowered to deal with publications, phonograph records, works of art, photographic work, public entertainment (including theaters), films, and posters—but not newspapers, which have their own press council. The board has jurisdiction over the board of censors for films and theaters, and takes over control of the importation of publications hitherto exercised by the minister of the interior. There is provision (within thirty days of a "named" banning) for an appeal to the Supreme Court. The board has a quorum of four.

The meat of the act—if this is the right word—is perhaps contained in sections 5(2) and 6(1) of the act. A publication is deemed to be undesirable if it or any part of it is blasphemous or offensive to the religious convictions or feelings of any section of the inhabitants of the republic, or brings any section into ridicule or contempt, or is prejudicial to the safety of the state, the general welfare or peace and good order. There is no mention of artistic or literary merit, total impact or the author's motive.

Previous to the passing of this act, some 9,000 titles had been banned under previous legislation, including Voltaire's *Candide*, which after a public outcry was promptly "unbanned." Among the works that remain banned from this period are John Steinbeck's *Wayward Bus*, James Farrell's *Studs Lonigan*, Richard Wright's *Native Son*, Noel Langley's *Cage Me a Peacock*, Orwell's *Coming up for Air* (but not 1984), the two *Tropics* of Henry Miller, Donleavy's *Ginger Man*, and Robert Graves' *I, Claudius*. Books banned since 1963 have included Mary McCarthy's *The Group*, Aldous Huxley's *Island*, Naomi Mitchison's *When We Become Men*, Robert Ruark's *Uhuru*, and Nadine Gordimer's *World of Strangers*. They are a mixed bag, and such

obvious candidates as *The Merry Muses of Caledonia*, *Ulysses*, and *Catcher in the Rye* are not (or were not) among them. Françoise Sagan's *Bonjour Tristesse*, banned in 1956 and released in 1964, is a rare case of a change of mind. There have, inevitably, been a number of near-bannings, including C. P. Snow's *Light and Dark* and Frederic Manning's *Her Privates*, *We*, but these have become part of the folklore of South African librarianship.

Apart from the effects of all this legislation, the South African writer who does not conform to the South African way of life exposes himself to risk from a further battery of laws.¹⁰ The Criminal Laws Amendment Act, 1953, provides for penalties against anyone protesting against any of these laws. The Riotous Assemblies Act of 1956 has provisions so restrictive that, in the words of another commentator, "A Samuel Wilberforce, campaigning today in South Africa against some of its social diseases and legislation, could scarcely avoid falling foul of this provision of the law, though his intention might be far removed from that of promoting hostility."¹¹ Under the General Law Amendment Act of 1962, it is a crime to further or encourage any political aim which includes the bringing about of any social or economic change in the republic, and no work by any "named" person may be published or possessed without penalties. This automatically includes works by such writers as Peter Abrahams, and also the authoritative works on African law and administration by H. J. Simons, copies of which may not be held by university libraries in which this subject is taught in the regular curriculum.

Since 1963 there has been but one major test case of the workings of the Publications and Entertainments Act. This arose from the banning of a book by a young South African writer, Wilbur A. Smith, whose novel *When the Lion Feeds*, published by Heinemann, was named in the *Gazette* in July, 1964. The subsequent judgment of the Court of Appeal in 1965 forms the substance of interesting comments by Kahn in the article already referred to,⁶ and shows the toils into which reasonable men can fall when dealing with matters of public morality. The ban was upheld by a majority of three to two.

It must not be inferred from what has been said that there have been no voices raised against this plenitude of laws and harryings. Among the bravest of the critics—and the word is used advisedly—are the younger Afrikaans writers, among them the group known as the Sestigters, the men of the sixties. For although no work in Afrikaans has yet been banned, the pressure to conform is ever-present, and

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the Afrikaans writer is only too well aware that the market for his wares is virtually restricted to Africa South of the Zambesi. Evidence that this truth is being taken to heart in some quarters, however tentatively, is shown by the foundation in Pretoria in 1969 of the Pasquino Society, to promote discussion of, and access to, literature and the arts, and the study of all aspects of the subject of censorship in the broadest sense of the word. There was, perhaps, something prophetic about the warnings of the Library Association memorandum of more than a decade ago. For it is surely true that "censorship is a social procedure destructive of human vitality, creativity and growth," inimical to the well-being of a healthy indigenous literature.

Finally, something must be said of the part that librarians have played in this continuing drama. There are, as there have always been, many men and women who have cared intensely for the ideals of their profession, and for fair dealing in the practice of their craft. In the increasingly divisive South African society librarians, like others, have tended to talk less and try to do more, within the inescapable framework they inhabit. As the years have passed, it has been increasingly difficult to speak out, and the subject of intellectual freedom does not appear any more in the professional journals such as *South African Libraries*. Whereas in the South African Library at the Cape thirty years ago the "non-white" reader could seek knowledge from books through the services provided in common, today he (like the "white") is assigned a "separate table." Elsewhere in the republic he is assigned a separate library. In 1962, the South African Library Association took the long step of declaring itself an association of "whites" only, holding out at the same time a helping hand to the separate associations that were to be formed by and for the Africans, the Indians and the Coloureds; all within the implacable context of the apartheid state, with what one South African has described as its terrifying consistency, grinding, like the mills of God, exceeding small.

The librarian as book selector in South Africa is subject to the same limitations of choice as his fellow-countrymen. Much of what he chooses is unaffected by the plethora of legislation described earlier in this article. But he must all the time be watching the *Gazette*, for others are also watching him. In the greater part of his daily work, the South African librarian shares the experiences and aspirations of his colleagues in countries that are, perhaps, easier to live in with a clear conscience. And it must also be remembered that for those who

believe that the only alternative to present policies is the loss of identity and possibly extinction, the question of conscience takes another form.

Some years ago this writer attempted to set down in the South African framework some fundamental thoughts on censorship in an increasingly restrictive society. To the question, what must the South African librarian do in the difficult position in which he finds himself, the following answers were then offered:

Be true to the tenets of the profession; seek and encourage excellence; attempt to develop human personalities through the positive means at every librarian's disposal; and finally resist at every turn all attempts to curb the freedom of the individual to think and act for himself.

The alternative . . . may well be to turn South Africa into the state so vividly characterized by the writer Norman Douglas as "those flat lands of life where men absorb each others' habits and opinions to such an extent that nothing is left save a herd of flurried automata."¹²

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Informing the Profession
about Intellectual Freedom

LEROY C. MERRITT

WHETHER THERE is a plethora or a virtual scarcity of information about intellectual freedom available to the library profession depends in large part on whether one is concerned about gaining an historical perspective or with knowing what is going on currently. Even the word "currently" usually needs to be defined broadly in terms of months, since it is rarely applicable in terms of days or hours, unless use of the telephone is not precluded. The library press is just not very well adapted to providing prompt coverage of the news and issues about intellectual freedom. Nor can it be said that librarians interested in, concerned with, or involved in matters of intellectual freedom are especially aware of the need to communicate—and promptly—for the benefit of their professional colleagues. What follows, then, is an account of the media of communication about intellectual freedom available to the profession, arranged in a rough progression from the general and retrospective to the particular and current.

Basic to a comprehensive view of intellectual freedom is Ralph McCoy's *Freedom of the Press: An Annotated Bibliography*, published in 1968. This monumental work affords access to "some 8,000 books, pamphlets, journal articles, films and other material . . . in English-speaking countries from the beginning of printing to the present."¹ A continuing selective bibliography, more closely limited to the interest of librarians, may be found regularly in the *Newsletter on Intellectual Freedom*.²

Many of the important essays and documents have been brought together into one anthology or another; *The First Freedom*³ by Robert B. Downs being the most significant and complete. More recently,

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Eric Moon has brought together relevant essays from the *Library Journal* under the title *Book Selection and Censorship in the Sixties*.⁴ Some of the more prominent confrontations with the forces of censorship appear in Everett T. Moore's *Issues of Freedom in American Libraries*,⁵ gleaned from his column in the *ALA Bulletin*. Of somewhat different ilk is *Censorship Landmarks*,⁶ an anthology of court cases going back to 1663, which contains an introduction by its editor Edward de Grazia that is itself a landmark.

Several works concerning intellectual freedom in libraries warrant specific mention, beginning with Lester Asheim's "Not Censorship but Selection,"⁷ which is probably the most quoted and reprinted essay in the field. Marjorie Fiske's *Book Selection and Censorship*⁸ stands alone as the major research effort concerning intellectual freedom in school and public libraries. Her principal, much too simplified, point was that librarians do more censoring than anybody, to which the immediate professional reaction was a combination of "It ain't so," and "We knew it all the time." Important also was the follow-up symposium designed to publicize the Fiske report, edited by J. Periam Danton under the title, *The Climate of Book Selection*.⁹ A latterday synthesis of much of the foregoing may be found in this writer's *Book Selection and Intellectual Freedom*.¹⁰

Nearly as basic as these books and essays are statements of policy developed and written to inform the profession and the public of the posture of the leadership of the library profession on matters involving intellectual freedom. The Library Bill of Rights was first promulgated by the American Library Association in 1939; it has been somewhat revised several times, most recently in 1967. Subsidiary to it and somewhat redundant is the School Library Bill of Rights, adopted by the American Association of School Librarians in 1955. Although somewhat dated now, the Freedom to Read Statement, developed jointly by librarians and publishers and adopted by the American Library Association and the American Book Publishers' Council in 1953, has proven itself to be important and useful. Less of an issue now than when it was approved in 1951 is the ALA statement on "Labeling Library Materials." Of more immediate usefulness to librarians on the firing line is the 1962 statement of "How Libraries and Schools Can Resist Censorship," a practical roster of things to do before and after the censor comes. Of even greater importance are locally developed statements of selection policy for every library designed to inform the public about the library's posture on matters of selection

and intellectual freedom, and to guide the library staff in its regular selection activity. The Enoch Pratt Free Library has published a most excellent example of this genre.¹¹ Except for the latter, which is available from the library, all of the above statements of policy are available in quantity from the Intellectual Freedom Office of the American Library Association in Chicago.

Regular serial publications in the area of intellectual freedom, which have not been many in number, may best be described as newsletters, of which the *Newsletter on Intellectual Freedom*¹² is at once the oldest and the most specifically related to the interests of librarians. Originated as a means of informing the profession about intellectual freedom matters, it has in recent years attempted also to become a journal of record bent on reporting all library-related controversies as well as important legislation and court decisions in other areas. It has in recent years been significantly supplemented by *Censorship Today*,¹³ edited by Mrs. Stanley Fleishman. Within the limitations of a bi-monthly magazine, coverage of library matters is minimal, of other matters maximal. Other regular workers in this vineyard are *FoI Digest*¹⁴ and its attendant *Reports*¹⁵ on specific issues and *Free Speech*.¹⁶

Not precisely on the same side of the issue, but indispensable to a comprehensive view of intellectual freedom and the tendencies toward censorship are the *Newsletter* of the National Organization for Decent Literature¹⁷ and *The National Decency Reporter*.¹⁸ The former has a monthly list of "Publications Disapproved for Youth," and includes some lists of books which *are* recommended. Each quarter several pages of forematter report the current censorious activity, often with a certain wry humor. The bi-monthly organ of Citizens for Decent Literature, on the other hand, is always deadly serious.

This roster of current journals would not be complete without mention of *American Libraries* (formerly *ALA Bulletin*), *Library Journal*, and the *Wilson Library Bulletin*, all of which have been faithful in recent years in reporting the news and the controversy within the profession to the profession. The *ALA Bulletin* (*American Libraries*) has carried additionally a monthly column on "Intellectual Freedom" since 1960, ably conducted by Everett T. Moore, Ervin J. Gaines, and Judith F. Krug. Various state association journals have been helpful in spreading the word by publishing special issues devoted to intellectual freedom. Notable examples in recent years have occurred in Wisconsin,¹⁹ Indiana,²⁰ Missouri,²¹ and New England.²²

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Reporting is one thing, however, and getting a point across is another. For the latter objective the mounting of a conference designed to inform the profession of its obligations to intellectual freedom in libraries can be much more effective. Four such conferences have been sponsored by the Intellectual Freedom Committee of the American Library Association and have made substantial contributions to the literature,²³ as did that sponsored by the University of California School of Librarianship to publicize the Fiske report.²⁴ State library associations can also have a significant impact in this area. A recent 1969 exemplification was the special "Conference on Censorship" sponsored by the University of Missouri Freedom of Information Center, the Missouri State Library, and the Missouri Library Association, held in Columbia in February. In a somewhat different format, the Nevada Library Association built its October 1969, annual conference around the theme of "The Challenges of Intellectual Freedom."

It would seem to be clear that there ought to be information enough for the profession in matters of intellectual freedom. And so there is, of a retrospective, after-the-fact, this-is-what-happened character. Still lacking, however, and likely to continue lacking, is prompt, day-to-day reporting by the people concerned so that the profession can be informed and be in a position to act in a beleaguered librarian's behalf—provided he is wanting help and assistance. Ah, there is the rub!

Local authorities are wary of outside "interference" and librarians are chary of involving their colleagues, no matter how well-intentioned or potentially effective they may be. When the chips are down, each man is almost necessarily very much alone. So perhaps—perhaps because I still wish to reserve judgment—the best we can do for the profession is already being done in the various manifestations described above—all of which are bent on informing the profession of theory, problems, and solutions so that each librarian can be as well informed as possible, can have developed and buttressed his own conviction as cogently as is a priori practicable—all against the day the lightning strikes his own library.

When that day comes, the beleaguered librarian should have available the services of his state library association intellectual freedom committee, and will have available the services of the American Library Association Intellectual Freedom Office, now ably directed by Judith F. Krug, since its establishment at ALA Headquarters in Chicago in December, 1967. The two avenues are very much inter-related in that Krug has been working hard at developing lines of communi-

cation between her office and the state intellectual freedom committees, having developed a monthly memorandum for that purpose. Help from both sources can, however, be forthcoming only if the local librarian works diligently at keeping the state committee and the Chicago office informed on a regular, perhaps even daily basis, and on his enunciating precisely the kind of help he needs in his local situation.

Should the ultimate extremity be reached in the cause of intellectual freedom, and a librarian be removed from his position or caused to resign, he now has available to him the services of the Freedom to Read Foundation, an independent membership organization established in November 1969,

- to promote and protect freedom of speech and freedom of press as such freedoms are guaranteed by the Constitution and laws of the United States and as such freedoms necessarily involve the public right to hear what is spoken and to read what is written;

- to promote the recognition and acceptance of libraries as repositories of the world's accumulated wisdom and knowledge and to protect the public right of access to such wisdom and knowledge;

- to support the right of libraries to include in their collections and to make available to the public any creative work which they may legally acquire;

- to supply legal counsel, which counsel may or may not be directly employed by the Foundation, and otherwise to provide support to such libraries and librarians as are suffering legal injustices by reason of their defense of freedom of speech and freedom of press as guaranteed by law against efforts to subvert such freedoms through suppression or censorship to the extent such libraries and librarians may request such aid and require it on account of poverty or inability to obtain legal counsel without assistance.²⁵

The key to obtaining such assistance, legal or financial, is again a matter of communication, for the controlling language is, "to the extent such libraries and librarians may request such aid." The Foundation will not offer unsolicited advice or aid. Though not a part of its intent, the Foundation thus has become an avenue of communication between the librarian in difficulty in behalf of intellectual freedom and the library profession as represented by its fifteen-member board of trustees and headquarters staff.

Informing the Profession

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Educating Librarians in Intellectual Freedom

KENNETH F. KISTER

IT IS TRUE, of course, that most early American librarians—believers in the logic of the Enlightenment—personally abhorred book censorship, and that some supported this conviction with appropriate words and deeds. But the profession's putatively strong commitment to the right to read and to the wider concept of intellectual freedom is nevertheless largely a twentieth century development, beginning in earnest in the late twenties as a belated response to the excesses of the vice societies and, specifically, the notorious "Clean Books" crusade of 1923-25. Revulsion against the Nazi book burnings in May, 1933, and the more heinous barbarisms of the forties strengthened the library community's dedication to the intellectual freedom idea, as the Library Bill of Rights, a codification of principles issued during that period, attests. The repressive spirit of McCarthyism in the fifties likewise evoked a reaffirmation of the commitment (for example, endorsement of the eloquent Freedom to Read statement in 1953), although the Fiske report,¹ a sociologist's study of book selection habits of California public and school librarians published in 1959, raised some disquieting questions about adherence to that commitment in actual practice. Finally, the sixties—years of political protest and social disorder—further sensitized and broadened the profession's concern for intellectual freedom and civil liberties, the decade ending with vociferous demands by many librarians and ad hoc groups that the American Library Association develop an effective legal support fund and other concrete instruments for promoting and protecting the practice of intellectual freedom among librarians.

Historically, library school curricula mirror the profession's evolving concern with intellectual freedom principles and censorship problems. Or perhaps it would be more accurate to say that available historical

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data (which are sparse), coupled with the general trends noted above, tend to support this conclusion. It is a matter of record that during the early years of 1887-1923 (from establishment of Dewey's school at Columbia to instigation of ALA accreditation of library training programs), library education consisted principally of mastering practical skills rather than studying professional theory and methods, and that as a result little if any attention was focused on intellectual freedom or censorship issues.² But after this period, no substantive information exists about curricular trends until Dorothy Bendix delivered her paper, "Teaching the Concept of Intellectual Freedom: The State of the Art,"³ at the 1967 annual meeting of the Association of American Library Schools, based on questionnaire research which revealed considerable emphasis on intellectual freedom and censorship in accredited library school curricula, particularly in book selection courses.

Some reasonable assumptions, nonetheless, can be made about teaching intellectual freedom in the library schools between the early twenties and the mid-sixties. It seems likely, for instance, that as practitioners slowly expanded the scope of their public services and began building increasingly sophisticated book collections for an increasingly better educated clientele (which naturally led to increased contact with the censor), the library schools gradually revised their curricula to encompass material of a more theoretical nature, including consideration of the librarian's responsibility to support the emerging right-to-read principle and to resist external censorship. It is also probable that well before publication of the Fiske report most, if not all, ALA accredited programs were offering instruction which at least superficially treated intellectual freedom and censorship issues somewhere in the curriculum, most likely in book selection courses or the introduction-to-librarianship type of course.

Although the depth of coverage and caliber of instruction undoubtedly varied (perhaps markedly) among the schools, library educators apparently devoted only minimal thought to how or what to teach in the area of intellectual freedom and censorship during this period. Not only is there an absence of literature concerning subject content and teaching methods, but no evidence exists that any school offered (or even contemplated) a separate course on the subject, required or elective. Presumably instruction centered primarily on the provisions of the Library Bill of Rights (and analogous documents), obvious legal restrictions on the circulation of printed material, and extralegal activities of organized pressure groups which frequently

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harassed public librarians. Moreover, all indications point to the conclusion that, prior to Fiske's investigation, the library schools considered intellectual freedom and censorship questions as simply an adjunct to the study of public library book selection problems; that curricula did not include discussion of self-censorship phenomena or a knowledgeable introduction to intellectual freedom principles in the broadest sense; and that instruction was largely exhortatory and, for the most part, ineffectual. Indeed, this narrow, casual, simplistic approach to the complicated, interdisciplinary subject of intellectual freedom and censorship did not prepare the average library school graduate to champion, let alone understand, the principles enunciated in the Library Bill of Rights and in similar codifications endorsed by his professional associations. When the history of the education of librarians in intellectual freedom is viewed in this light, it seems strange today that the Fiske report so profoundly shocked the professional leadership when it appeared in 1959.

Perhaps the most remarkable trend in contemporary library education is the fact that the Fiske report did not immediately revolutionize the teaching of intellectual freedom. This is not to say that results of Fiske's report were entirely novel or unexpected. Her principal conclusion—that librarians often engage in clandestine self-censorship practices while concurrently professing strong freedom-to-read convictions—was anticipated at least a decade earlier when Oliver Garceau, another social scientist, observed that, "The censorship of library holdings does not often become a public issue, largely because it is an intramural activity. As a member himself of the white collar middle class that uses his library, the librarian has a green thumb for cultivating those books that will be popular and an equal knack for weeding out what will be considered dangerous."⁴

A few years later, Lester Asheim explored the dynamics of this phenomenon in his landmark essay "Not Censorship but Selection."⁵ The Fiske report, however, was based not on speculation but on empirical data collected by reputable scientific procedures, and, although the data were limited to one geographical area of the country, the report could not be ignored as merely an educated guess or dismissed as polemical opinion. Yet the Fiske report did not stimulate a major reassessment of library school curricula and teaching methods in the area of intellectual freedom and censorship at the time, and even now—more than a decade after the report was issued—curricular innovations are the exception rather than the rule.

But if Fiske's monumental study did not have an immediate or radical impact on library school curricula, it did generate some modestly encouraging developments during the sixties, as Ervin J. Gaines has pointed out in his historical survey of the censorship scene for the years 1957-67: "Her report . . . strengthened the determination of more liberal librarians to push the issue harder than ever. The content of library school courses began to include larger doses of discussion about librarians' responsibilities, and the open-mindedness of the younger professionals was often in marked contrast to the excessive caution of their elders."⁶ Fiske's investigation also inspired a number of book selection questionnaire surveys by Eric Moon⁷ and others which offered supportive data for her conclusions, and by 1967, Dorothy Bendix could report that materials selection courses in the schools were placing more emphasis on intellectual freedom and censorship than on any other single subject.⁸ In addition, Bendix conducted a much needed survey in 1966 for the Association of American Library Schools to determine how and what the accredited schools were teaching in the intellectual freedom and censorship area.⁹ (The results of this questionnaire survey were reported to the association in 1967, as noted above.)

The Bendix study—limited to an analysis of content and methods in sixty-five required courses given in thirty-six schools (of the then thirty-eight accredited schools)—indicated that, although curricular emphasis on intellectual freedom and censorship is impressive, the depth and quality of instruction leave much to be desired. For example, not only did the study reveal "that self-censorship was mentioned by only six, or less than 8 per cent of the instructors"¹⁰ who responded, but reading assignments "most frequently are characterized by a liberal point of view."¹¹ The study also indicates prevalent use of the lecture method in teaching intellectual freedom, although (encouragingly) a large number of instructors reported using discussion and case study methods as well.

Generally speaking, analysis of the Bendix data leads to the unwelcome and disturbing conclusion that, in terms of both substance and methodology, the teaching of intellectual freedom and censorship in the library schools has not changed significantly since the pre-Fiske era, inasmuch as most library educators still apparently view the study of intellectual freedom from the narrow right-to-read perspective and continue to treat censorship as principally an external phenomenon which manifests itself in extralegal activity which affects only public

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library selection policies and procedures. Conversely, there appears to be little recognition that, if they are to be understood on any but the most superficial level, intellectual freedom and censorship issues entail multidisciplinary study involving a wide spectrum of interrelated legal, political, economic, social, psychological, historical, philosophical, and aesthetic questions, and that the whole subject obviously requires more than cursory attention in the library school curriculum if graduates are to develop both an appreciation for the intellectual freedom idea and the determination to resist the censor, whoever he might be.

While the increased use of class discussion and case studies is a heartening trend, there is good reason to believe that much instruction continues to be admonitory and preachy—and, as a result, ineffectual. But the mere fact that the Association of American Library Schools invited Bendix to undertake such a questionnaire survey is a good indicator that some concerned library educators are prepared to grapple seriously with the difficult question of how to teach the concept of intellectual freedom more effectively. There is in fact some scattered evidence around the country that this process has already begun.

At the present time, several innovative teaching experiments stand out among the nascent efforts to improve instruction in intellectual freedom. At the University of Minnesota Library School, David K. Berninghausen, director of the school and former chairman of the ALA Intellectual Freedom Committee, has recently begun using actual case studies in combination with Mill's classic essay, *On Liberty*, to teach intellectual freedom principles to beginning students in a unique and creative way, apparently with good results. In his article "Teaching a Commitment to Intellectual Freedom"¹² (based on a paper prepared for the Association of American Library Schools annual meeting in 1967), Berninghausen discusses his approach, offering a prototype case study which raises several complex problems involving religious liberty, freedom of choice, librarians' moral and professional responsibilities, and Mill's argumentation.

Quite obviously, the issues generated by Berninghausen's cases are not confined simply to the traditional public library book selection problem and the what-to-do-when-the-censor-comes type of situation. In this connection, he points to the need for librarians to develop "an appreciation of the nature and significance of free scholarship"¹³ and suggests instances when free scientific inquiry has been subverted in academic libraries. Berninghausen asserts that, "If library educators

are to teach a commitment to intellectual freedom, then they need to study and teach the communications process in detail,"¹⁴ which is a large order. But his intelligent, imaginative application of the case study method does enhance the possibility that such a goal can be achieved in library school curricula, even if it does not reduce the magnitude of the task.

At Simmons College, School of Library Science, this author¹⁵ developed and teaches "Intellectual Freedom and Censorship," the first full-semester course on the subject offered by any library school in the country. Added to the Simmons curriculum in 1968, the course—a four-credit elective open to students with degree candidacy or post-graduate standing—is fully described in Moon's *Book Selection and Censorship in the Sixties*. Briefly, the course emphasizes reading and discussion, with titles like Fromm's *Escape from Freedom*, Barrett's *Irrational Man*, Marcuse's *One-Dimensional Man*, Konvitz's *Expanding Liberties*, and Boyer's *Purity in Print* forming an integral part of the syllabus. In addition, several fictional works—Brecht's *Galileo*, Kafka's *The Trial*, and Koestler's *Darkness at Noon*—are read as "case studies." Perhaps the most important and challenging feature of this course is its deliberately interdisciplinary approach to the study of intellectual freedom principles and censorship problems. The syllabus is so constructed that the student progressively explores legal, extralegal, and internal censorship phenomena while concurrently analyzing the political, social, psychological, and philosophical mechanisms of freedom.

It should be pointed out that "Intellectual Freedom and Censorship" is not a library science course *per se*. In fact, libraries are rarely mentioned until the final class meeting, when the librarian's place in the freedom/censorship scheme of things is considered. This course is an exciting and rewarding one to teach, and thus far Simmons students have responded with enthusiasm. LeRoy Merritt's recent comment that, "However any of us might wish to vary the content and the method, I would hope that we could not but agree that such an elective course warrants a place in all of our curricula,"¹⁶ is both gratifying and significant.

At the Graduate School of Library Service of the University of California, Los Angeles, a "Seminar in Intellectual Freedom" was first offered in the spring of 1969. In this seminar, limited to ten students, each member is responsible for investigating a particular topic, reading in some detail on it, and reporting orally and leading discussion on the subject at one session of the seminar. Everett T.

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Moore, Assistant University Librarian at UCLA, and Lecturer in the School, who gives the seminar, assumes that all members will have an understanding of the general principles of intellectual freedom and a ready acquaintance with current issues of censorship and repression—an assumption he acknowledges may not always be justified, but which may serve to stimulate more intensive reading in the subject than might otherwise be engendered.

Topics that have generated particularly good discussions have included "Church and State in America: How Truly Separate?" "Freedom of the Press: What Safeguards? Who Controls the Media?" "Efforts of the Courts to Define Obscenity," and "Scientific Research and National Security: How Free Can Scientists Be?" Moore remarks that student criticisms of the seminar have suggested that more lecture content by the instructor would be desirable, but he points out that this is not the nature of a seminar and that he is concerned mainly that his students should read extensively and deeply about such matters as the historical and constitutional bases for the concepts of freedom; civil liberties and civil rights; academic freedom; and the restraints on freedom of speech, the press, and the arts. Development of critical powers of analysis concerning the problems that beset our society today is his principal objective. The seminar, he believes, may at least offer a helpful introduction to the subject.

Finally, at the School of Library Science, University of Southern California, another distinctive curricular experiment began in the fall of 1969, when the school instituted a course entitled "Intellectual Freedom and Censorship." Although analogous to the Simmons course in breadth of content and purpose, the USC course differs markedly in structure and procedure. Specifically, the course is part of a unique intellectual freedom consortium established last year at the University which offers four related courses sponsored by different departments: "Colloquium on Literary Censorship" (department of comparative literature); "Censorship in the Performing Arts" (division of cinema); "Contemporary Problems in the Freedom of Speech" (speech department); and the school of library science course, which is taught by Edward Hess, a lecturer in the school. Last fall, soon after the joint teaching venture had begun, Hess described the experiment in this manner:

We meet jointly for five of approximately fifteen sessions, hearing from a political scientist, a lawyer, a minister, a sociologist, and an as yet undefined panel. Three of the joint meetings have been held

so far, and while they have been stimulating, I'm not sure of their ultimate value at this point.

The remaining sessions of the library school course are my responsibility. My general approach . . . has been to search for ideas which might possibly be developed into operational statements for more meaningful materials selection policies than are prevalent today. We consider, among other things, the four theories of the press (with emphasis on the libertarian and social responsibility theories), the sociology of literature, and the concept of the public interest and its possible implications for the professional.

On a more concrete level, we are attempting to determine as accurately as possible the existing criteria for obscenity as established by the Supreme Court. With this as background, each student is reading a pornographic "classic" of his choice which has been passed on the basis of these criteria, and is then reading a current novel of his choice containing purported pornography, trying to apply the legal criteria to see if these criteria can be operational in any realistic sense. Also in the legal area, we are studying recent California legislation concerned with pornography, attempting to assess its probable impact on library practice.¹⁷

Hess concludes by remarking that, "Although the students seem interested, I cannot yet say whether or not I consider the course to be successful. . . . It is much too early to attempt a searching evaluation."¹⁷ Nevertheless, whatever the final conclusion reached at USC about this consortium approach to teaching intellectual freedom, the curricular potential for library education is notable.

Each of these instructional experiments in educating librarians in intellectual freedom is interesting and doubtless valuable at Minnesota, Simmons, UCLA and USC respectively, but whether they together indicate a trend for future curricular development in the library schools generally is by no means certain. In his paper on teaching intellectual freedom given in 1968 at the University of Illinois Conference on Library School Teaching Methods: Courses in the Selection of Adult Materials, LeRoy Merritt stated that curricula in intellectual freedom have developed and are currently developing "not so much according to curricular plan, as according to interest and predilections of the instructors concerned."¹⁸ The four innovative approaches described above would seem to confirm this observation, although the attitude and interests of the library school dean also appear to be an important determinant. At Minnesota, the dean himself is the innovator; at Simmons, this author received encouragement directly and by example

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from his dean, Kenneth R. Shaffer, who has written various case studies concerning censorship in the book selection area; and at USC, the new course on intellectual freedom clearly owes much to Dean Martha Boaz's wide-ranging interest in censorship problems. Thus it might be concluded that if a viable trend toward improving and expanding the teaching of intellectual freedom does materialize, it will require administrative leadership as well as interested faculty members.

But viewed from another perspective, it is possible to say with some conviction that the Simmons, UCLA and USC courses, together with Berninghausen's approach at Minnesota, do constitute a small but growing trend in the teaching of intellectual freedom which could expand quite rapidly in the near future. Fiske's data have been verified and her conclusions have been almost universally accepted as valid by the professional library community; however, more important is the fact that young librarians (like young people everywhere) are rebelling against the hypocrisy and equivocation which Fiske exposed. In addition, there is a growing intuitive sense among many professionals of the centrality of intellectual freedom in the library complex: data banks and the right to privacy, copyright privileges and the access to information, academic freedom and student dissent, the mass media and brainwashing, police power and underground films, government secrecy and the Freedom of Information Act, libel laws and press freedom, unionization and professional neutrality, majority power and minority rights, the psychological urge to conform, and the philosophical question of choice are all issues of enormous complexity which involve librarians and intellectual freedom in one respect or another.

The combined force of these relatively recent developments—verification and general acceptance of Fiske's conclusions about self-censorship tendencies among librarians, emergence of an articulate group of young librarians who apparently value principle above expediency, and recognition of the central position of intellectual freedom in the expanding world of librarianship—could result in more and better teaching of intellectual freedom in the library schools during the next several years if library educators are at all responsive to contemporary professional trends. From this perspective, the curricular innovations at Simmons, UCLA, USC, and Minnesota are clearly indicative of future trends in the teaching of intellectual freedom.

Some years ago in his essay "Wordsworth in the Tropics," Aldous Huxley questioned whether the poet had really understood Nature because he did not know the jungle, where the natural elements are

often brutal and inhospitable rather than soothing and agreeable. The same observation might be made about library educators who have traditionally equated studying intellectual freedom with reading the Library Bill of Rights and articles on how to resist the censor: intellectual freedom is acknowledged as a lofty concept, but the approach is insular and excessively romantic. Conditions for changing and expanding the education of librarians in intellectual freedom are favorable, and several useful prototypes for curricular reform exist. By and large, the outlook for the seventies is encouraging.

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18 3	Problems of Acquisition for Research Libraries	Roland E. Stevens	Jan. 1970
18 4	Issues and Problems in Designing a National Program of Library Automation	Henry J. Dubester	April 1970

Library Trends

Forthcoming numbers are as follows:

October, 1970, *State and Federal Legislation for Libraries*. Editor: Alex Ladenson, Chief Librarian, Chicago Public Library.

January, 1971, *Book Storage*. Editor: Mary B. Cassata, Assistant Director for Public Services, Lockwood Memorial Library, State University of Buffalo, Buffalo, New York.

April, 1971, *New Dimensions in Educational Technology for Multi-Media Centers*. Editor: Philip Lewis, President, Instructional Dynamics Incorporated, Chicago, Illinois.

July, 1971, *Continuing Education for Librarians*. Editor: Elizabeth W. Stone, Assistant to the Chairman and Associate Professor, Graduate Department of Library Science, The Catholic University of America, Washington, D.C.